

Senate Bill 1519

Sponsored by Senator KNOPP; Senators FERRIOLI, HANSELL, THATCHER, WHITSETT (Pre-session filed.)

SUMMARY

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

Modifies provisions relating to employee contributions of members of Public Employees Retirement System.

Excludes certain unused leave and amounts from definition of "salary" for purposes of calculation of benefits under Public Employees Retirement System.

Directs Public Employees Retirement Board to use assumed interest rate published by federal Pension Benefit Guaranty Corporation in formulating actuarial equivalency factor tables for purpose of computing payments to members of Public Employees Retirement System.

Establishes Fair Retirement Plan for persons hired on or after January 1, 2017, who have not established membership in Public Employees Retirement System before January 1, 2017.

Continuously appropriates funds collected pursuant to charge to board for costs of administration of Fair Retirement Plan.

Directs board to recalculate employer contribution rates to reflect savings attributable to Act.

Provides for expedited review of Act by Supreme Court upon petition by adversely affected party.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; creating new provisions; amending ORS 106.340, 169.810,
3 173.051, 192.502, 196.165, 237.620, 237.650, 238.005, 238.105, 238.115, 238.265, 238.350, 238.445,
4 238.447, 238.455, 238.460, 238.465, 238.607, 238.630, 238.645, 238.650, 238.700, 238.705, 238.715,
5 238A.005, 238A.320, 238A.330, 238A.335, 243.800, 243.830, 268.240, 338.135, 341.290, 341.551,
6 350.355, 352.129, 352.138, 353.117, 377.836, 396.330, 410.614, 576.306 and 777.775; repealing ORS
7 238.750; and declaring an emergency.

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

EMPLOYEE CONTRIBUTIONS

11
12 **SECTION 1.** ORS 238A.330 is amended to read:

13 238A.330. (1)(a) A member of the individual account program **who did not establish member-**
14 **ship in the Public Employees Retirement System before August 29, 2003, as described in ORS**
15 **238A.025 (4)**, must make employee contributions to the individual account program of six percent
16 of the member's salary.

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

20 (2) **A member of the Public Employees Retirement System who established membership**
21 **in the system before August 29, 2003, as described in ORS 238A.025 (4), must make employee**
22 **contributions totaling six percent of the member's salary. Employee contributions made un-**
23 **der this subsection shall be credited by the board to the employee account established for**
24 **the member under ORS 238A.350 (2).**

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 (3) A new member of the individual account program shall first make contributions under this
 2 section for those wages that are attributable to services performed by the employee during the first
 3 full pay period following the six-month probationary period required under ORS 238A.300, without
 4 regard to when those wages are considered earned for other purposes under this chapter.

5 **SECTION 2.** ORS 238A.335 is amended to read:

6 238A.335. (1) A participating public employer may agree, by a written employment policy or by
 7 a collective bargaining agreement, to pay **all or part of** the employee [*contribution*] **contributions**
 8 required under ORS 238A.330. [*The policy or agreement need not include all members of the individual*
 9 *account program employed by the employer.*] **The amount of the employee contributions that is**
 10 **paid by the employer must be equal to a percentage of the member's salary that is not less**
 11 **than one percent and not greater than six percent, and the percentage must be a whole**
 12 **number. The employer may enter into an agreement under this section with all or some of**
 13 **the employees employed by the employer.**

14 (2) An agreement under this section [*to pay the required employee contribution*] may provide that:

15 (a) **Amounts be deducted from** employee compensation [*be reduced*] to generate the funds
 16 needed to make [*the*] employee contributions; [*or*]

17 (b) Additional amounts be paid by the employer for the purpose of making [*the*] employee
 18 contributions[, *and employee compensation not be reduced for the purpose of generating the funds*
 19 *needed to make the employee contributions.*]; **or**

20 (c) **Amounts be deducted from employee compensation under paragraph (a) of this sub-**
 21 **section to generate the funds needed to make a portion of the employee contributions and**
 22 **that additional amounts be paid by the employer under paragraph (b) of this subsection to**
 23 **generate the funds needed to make a portion of the employee contributions.**

24 (3) A participating public employer must give written notice to the Public Employees Retirement
 25 Board at the time that [*a written employment policy or collective bargaining agreement described in*
 26 *subsection (1) of*] **an agreement under** this section is adopted or changed. The notice must specif-
 27 ically indicate whether the agreement is as described in subsection (2)(a) [*or*], (b) **or** (c) of this
 28 section. [*Any change in the manner in which employee contributions are to be paid applies only to*
 29 *employee contributions made on and after the date the notice is received by the board.*] **An agreement**
 30 **under this section, and any change to an agreement under this section, applies only to em-**
 31 **ployee contributions for pay periods beginning on or after the date that the notice is received**
 32 **by the board.**

33 (4) **An agreement under this section may not have a duration longer than five years, but**
 34 **may be renewed.**

35 **SECTION 3.** Sections 4 and 5 of this 2016 Act are added to and made a part of ORS
 36 chapter 238A.

37 **SECTION 4. Accounts for Tier 1 and 2 members established.** (1) **The Public Employees**
 38 **Retirement Board shall establish an account for each active member of the Public Employees**
 39 **Retirement System who established membership in the system before August 29, 2003, as**
 40 **described in ORS 238A.025 (4).**

41 (2) **Each account established under this section shall be adjusted at least annually in ac-**
 42 **cordance with rules adopted by the board to reflect any net earnings or losses on contribu-**
 43 **tions to the account. The adjustments described in this subsection shall continue until the**
 44 **account is withdrawn or applied against the costs of the pension or other retirement benefits**
 45 **payable to the member.**

1 **(3) Unless the amounts in an account established under this section are withdrawn under**
 2 **section 5 of this 2016 Act, the amounts in the account shall be applied by the board to pay**
 3 **the costs of the pension payable to or on behalf of the member.**

4 **SECTION 5. Withdrawal. (1) An inactive member may elect to receive a distribution of**
 5 **the amounts in the member's account established under section 4 of this 2016 Act if the in-**
 6 **active member is not employed by a participating public employer or by an employer who is**
 7 **treated as part of a participating public employer's controlled group under the federal laws**
 8 **and rules governing the status of the Public Employees Retirement System and the Public**
 9 **Employees Retirement Fund as a qualified governmental retirement plan and trust.**

10 **(2) A member who is eligible to withdraw the member's member account under ORS**
 11 **238.265 may make an election under this section only if the member also withdraws the**
 12 **member account under ORS 238.265.**

13 **SECTION 6.** ORS 238A.320 is amended to read:

14 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
 15 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
 16 tablished.

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

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

22 (a) The date on which the member completes at least 600 hours of service in each of five cal-
 23 endar years. The five calendar years need not be consecutive, but are subject to the provisions of
 24 subsection (5) of this section.

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

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

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

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

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

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

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

45 **(7) A member becomes vested in the account established for the member under section**

1 **4 of this 2016 Act on the date the account is established.**

2 **SECTION 7. The amendments to ORS 238A.005, 238A.330 and 238A.335 by sections 1, 2 and**
 3 **9 of this 2016 Act do not apply to a collective bargaining agreement entered into before the**
 4 **effective date of this 2016 Act. Any collective bargaining agreement entered into on or after**
 5 **the effective date of this 2016 Act must be in conformance with ORS 238A.005, 238A.330 and**
 6 **238A.335, as amended by sections 1, 2 and 9 of this 2016 Act.**

7
 8 **DEFINITION OF “SALARY”**

9
 10 **SECTION 8. ORS 238.005 is amended to read:**

11 238.005. For purposes of this chapter:

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

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

17 (3) “Board” means the Public Employees Retirement Board.

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

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

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

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

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

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

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

38 (a) Persons engaged as independent contractors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (17) "Normal retirement age" means:

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

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

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

45 (19) "Police officer" includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 police officers commissioned by the district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (G) Payments for periods of leave of absence after the date the employer and employee have
 10 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for
 11 sick leave and vacation **accrued before the effective date of this 2016 Act**;

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

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

18 **(J) Any lump sum payment for accumulated unused vacation leave or other unused paid**
 19 **leave accrued on or after the effective date of this 2016 Act; or**

20 **(K)(i) For a member who is not a police officer or firefighter, any amount in excess of**
 21 **\$100,000 for a calendar year. If any period over which salary is determined is less than 12**
 22 **months, the \$100,000 limitation for that period shall be multiplied by a fraction, the numer-**
 23 **ator of which is the number of months in the determination period and the denominator of**
 24 **which is 12.**

25 **(ii) For a member who is a police officer or a firefighter, any amount in excess of limi-**
 26 **tations on contributions under the Internal Revenue Code.**

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

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

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

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

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

34 **SECTION 9.** ORS 238A.005 is amended to read:

35 238A.005. For the purposes of this chapter:

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

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

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

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

44 (a) Persons engaged as independent contractors;

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

- 1 (c) Persons provided sheltered employment or make-work by a public employer;
- 2 (d) Persons categorized by a participating public employer as student employees;
- 3 (e) Any person who is an inmate of a state institution;
- 4 (f) Employees of foreign trade offices of the Oregon Business Development Department who live
- 5 and perform services in foreign countries under the provisions of ORS 285A.075 (1)(g);
- 6 (g) An employee actively participating in an alternative retirement program established under
- 7 ORS 353.250 or an optional retirement plan established under ORS 341.551;
- 8 (h) Employees of a public university listed in ORS 352.002 who are actively participating in an
- 9 optional retirement plan offered under ORS 243.800;
- 10 (i) Any employee who belongs to a class of employees that was not eligible on August 28, 2003,
- 11 for membership in the system under the provisions of ORS chapter 238 or other law;
- 12 (j) Any person who belongs to a class of employees who are not eligible to become members of
- 13 the Oregon Public Service Retirement Plan under the provisions of ORS 238A.070 (2);
- 14 (k) Any person who is retired under ORS 238A.100 to 238A.250 or ORS chapter 238 and who
- 15 continues to receive retirement benefits while employed; and
- 16 (L) Judges.
- 17 (5) "Firefighter" means:
- 18 (a) A person employed by a local government, as defined in ORS 174.116, whose primary job
- 19 duties include the fighting of fires;
- 20 (b) The State Fire Marshal, the chief deputy state fire marshal and deputy state fire marshals;
- 21 and
- 22 (c) 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 (6) "Fund" means the Public Employees Retirement Fund.
- 26 (7)(a) "Hour of service" means:
- 27 (A) An hour for which an eligible employee is directly or indirectly paid or entitled to payment
- 28 by a participating public employer for performance of duties in a qualifying position; and
- 29 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave
- 30 during which an employee does not perform duties but for which the employee is directly or indi-
- 31 rectly paid or entitled to payment by a participating public employer for services in a qualifying
- 32 position, as long as the hour is within the number of hours regularly scheduled for the performance
- 33 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-
- 34 thorized leave.
- 35 (b) "Hour of service" does not include any hour for which payment is made or due under a plan
- 36 maintained solely for the purpose of complying with applicable workers' compensation laws or un-
- 37 employment compensation laws.
- 38 (8) "Inactive member" means a member of the pension program or the individual account pro-
- 39 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who
- 40 is not a retired member and who is not employed in a qualifying position.
- 41 (9) "Individual account program" means the defined contribution individual account program of
- 42 the Oregon Public Service Retirement Plan established under ORS 238A.025.
- 43 (10) "Institution of higher education" means a public university listed in ORS 352.002, the
- 44 Oregon Health and Science University or a community college, as defined in ORS 341.005.
- 45 (11) "Member" means an eligible employee who has established membership in the pension pro-

1 gram or the individual account program of the Oregon Public Service Retirement Plan and whose
2 membership has not been terminated under ORS 238A.110 or 238A.310.

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

5 (13) "Pension program" means the defined benefit pension program of the Oregon Public Service
6 Retirement Plan established under ORS 238A.025.

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

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

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

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

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

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

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

25 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit
26 plan by the employer at the election of the employee and that is not includable in the taxable in-
27 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2014.

28 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the
29 election of the employee and that is not included in the taxable income of the employee by reason
30 of 26 U.S.C. 402(e)(3), as in effect on December 31, 2014.

31 (E) Retroactive payments described in ORS 238.008.

32 (F) The amount of an employee contribution to the individual account program **or to the ac-**
33 **count established under section 4 of this 2016 Act** that is paid by the employer and deducted
34 from the compensation of the employee, as provided under ORS 238A.335 (1) and (2)(a).

35 (G) The amount of an employee contribution to the individual account program **or to the ac-**
36 **count established under section 4 of this 2016 Act** that is not paid by the employer under ORS
37 238A.335.

38 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
39 652.190.

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

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

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

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

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

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

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

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

10 (H) The amount of an employee contribution to the individual account program **or to the ac-**
 11 **count established under section 4 of this 2016 Act** that is paid by the employer and is not de-
 12 ducted from the compensation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

13 (I)(a) **For a member who is not a police officer or firefighter**, any amount in excess of
 14 [\$200,000] **\$100,000** for a calendar year. If any period over which salary is determined is less than
 15 12 months, the [\$200,000] **\$100,000** limitation for that period shall be multiplied by a fraction, the
 16 numerator of which is the number of months in the determination period and the denominator of
 17 which is 12. *[The board shall adopt rules adjusting this dollar limit to incorporate cost-of-living ad-*
 18 *justments authorized by the Internal Revenue Service.]*

19 (b) **For a member who is a police officer or firefighter, any amount in excess of \$200,000**
 20 **for a calendar year. If any period over which salary is determined is less than 12 months, the**
 21 **\$200,000 limitation for that period shall be multiplied by a fraction, the numerator of which**
 22 **is the number of months in the determination period and the denominator of which is 12.**
 23 **The board shall adopt rules adjusting this dollar limit to incorporate cost-of-living adjust-**
 24 **ments authorized by the Internal Revenue Service.**

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

26 **SECTION 10. The amendments to ORS 238.005 and 238A.005 by sections 8 and 9 of this**
 27 **2016 Act apply only to:**

28 (1) **Amounts paid on and after the effective date of this 2016 Act; and**

29 (2) **Members of the Public Employees Retirement System whose effective date of retire-**
 30 **ment is on or after the effective date of this 2016 Act.**

31
 32 **USE OF UNUSED LEAVE**

33
 34 **SECTION 11.** ORS 238.350 is amended to read:

35 238.350. (1)(a) Upon the request by a public employer that its employees be compensated for
 36 accumulated unused sick leave with pay in the form of increased retirement benefits upon service
 37 or disability retirement, the board shall establish a procedure for adding to the gross amount of
 38 salary used in determining final average salary the monetary value of one-half of the accumulated
 39 unused sick leave with pay of each retiring employee of the requesting public employer and shall
 40 establish benefits of the retiring employee on the basis of a final average salary reflecting that ad-
 41 dition.

42 (b) For employees of a common school district, a union high school district, an education service
 43 district or an institution of higher education engaged in teaching or other school activity, or em-
 44 ployees of the school operated under ORS 346.010 engaged in teaching or other school activity, who
 45 are employed under contract for a period of less than 12 consecutive months and who are entitled

1 to sick leave with pay of less than 96 hours for a year, each hour of accumulated unused sick leave
2 with pay shall be valued on the basis of the actual number of contract hours of employment during
3 the last year of contributing membership of an employee before retiring and the salary of the em-
4 ployee during the same period. This paragraph does not apply to any employee who is employed
5 under contract for 12 consecutive months in any of the three or less years used in determining the
6 final average salary of the employee.

7 (c) For the purpose of this subsection, accumulated unused sick leave with pay includes unused
8 sick leave with pay accumulated by an active member of the system while in the service of any
9 public employer participating in the system that has the request described in paragraph (a) of this
10 subsection in effect at the time of the member's separation from the service of the employer, whether
11 that employer is or is not the employer of the member at the time of the member's retirement.

12 (d) The board shall establish rules requiring all public employers participating in the system to
13 transmit to the board reports of unused sick leave with pay accumulated by their employees who
14 are members of the system and to provide timely notification to each of those employees of unused
15 sick leave with pay accumulated by the employee and reported to the board.

16 (2) Accumulated unused sick leave with pay may be considered for the purpose of subsection (1)
17 of this section only in accordance with the following requirements:

18 (a) Sick leave not credited at the rate actually provided by the public employer may not be
19 considered. The amount of sick leave exceeding an amount credited at the lowest rate in effect for
20 any employee of the public employer who is normally entitled to sick leave, and in any event ex-
21 ceeding an amount credited at a rate of eight hours for each full month worked, may not be con-
22 sidered.

23 (b) Sick leave credited for periods when an employee was absent from employment on sabbatical
24 leave, educational leave or any leave without pay may not be considered.

25 (c) Any period during which an employee was absent from employment for illness or injury that
26 was charged against sick leave not qualified for consideration shall be deducted from sick leave
27 qualified for consideration.

28 (d) Sick leave for any period for which the public employer provides no sick leave with pay for
29 its employees may not be considered.

30 (e) Sick leave accumulated on and after July 1, 1973, may be considered only to the extent it is
31 supported by records of accumulation and use pursuant to a plan adopted formally by the public
32 employer.

33 (f) Accumulated unused sick leave for periods before July 1, 1973, may be considered as follows:

34 (A) If any department, bureau or other organizational unit of a public employer maintained
35 formal records of accumulation and use even though the public employer did not require that those
36 records be maintained, the accumulated unused sick leave shall be considered according to those
37 records.

38 (B) Where the public employer provided sick leave before July 1, 1973, but formal records of
39 accumulation and use were not required or if required, are unavailable or incomplete, or the sick
40 leave was subject to administrative limitations on total accumulation or transfer between public
41 employers, accumulated unused sick leave for periods before July 1, 1973, may be considered as
42 equal to 2.675 hours for each full month worked or an amount per month equal to the average
43 monthly accumulation by an employee during the period beginning July 1, 1973, and ending at the
44 time of retirement, whichever amount is greater, but reduced by the amount of any accumulated
45 unused sick leave credited to the employee on July 1, 1973.

1 (g) The written certification of a member or former member of the Legislative Assembly shall
 2 constitute a formal record of accumulation and use in determining the amount of accumulated un-
 3 used sick leave of an employee of the Legislative Assembly, either of its houses or any of its com-
 4 mittees or officers for periods of employment before July 1, 1981. Sick leave accumulated on and
 5 after July 1, 1981, by employees of the Legislative Assembly, either of its houses or any of its com-
 6 mittees or officers may be considered only to the extent it is supported by records of accumulation
 7 and use maintained by the Legislative Administration Committee, or any statutory, standing, special
 8 or interim committee of the Legislative Assembly or either house thereof, or any constitutional or
 9 statutory office of the Legislative Assembly or either house thereof, pursuant to a plan adopted
 10 formally by the committee or officer.

11 **(h) Accumulated unused sick leave for periods on and after the effective date of this 2016**
 12 **Act may not be considered.**

13 (3)(a) As used in this subsection, "legislative employee" means any person employed by the
 14 Legislative Assembly, either of its houses or any of its committees or officers, but does not include
 15 a regular employee of a statutory committee or statutory office of the Legislative Assembly de-
 16 scribed in ORS 173.005 (1).

17 (b) Upon the request of a retiring legislative employee who is a member of the system, and the
 18 request of the public employer of the legislative employee, that the legislative employee be com-
 19 pensated for accumulated unused vacation with pay for periods of legislative employment in the form
 20 of increased retirement benefits upon service or disability retirement, the board shall add to the
 21 gross amount of salary used in determining final average salary of the legislative employee the
 22 monetary value of one-half of the accumulated unused vacation with pay of the legislative employee
 23 and shall establish the benefits of the legislative employee on the basis of a final average salary
 24 reflecting that addition.

25 (c) Accumulated unused vacation with pay may be considered for the purposes of paragraph (b)
 26 of this subsection only in accordance with the following requirements:

27 (A) Vacation not credited at the rate actually provided by the public employer may not be
 28 considered.

29 (B) Amounts of vacation exceeding amounts creditable to employees in the classified service of
 30 the state service pursuant to ORS 240.515 (1), and rules adopted pursuant thereto, in effect on June
 31 30, 1981, shall not be considered.

32 (C) Vacation accumulated before, on and after July 1, 1981, may be considered only to the extent
 33 it is supported by records of accumulation and use pursuant to a plan adopted formally by the public
 34 employer. However, the written certification of a member or former member of the Legislative As-
 35 sembly shall constitute a formal record of accumulation and use in determining the amount of ac-
 36 cumulated unused vacation of a legislative employee for periods of legislative employment before
 37 July 1, 1981.

38 (4) Employers with plans providing payments on account of sickness in lieu of sick leave with
 39 pay may request the board to consider the monetary value of accumulated unused payments on ac-
 40 count of sickness as if such payments were an equivalent amount of accumulated unused sick leave
 41 with pay under the same terms and conditions specified in subsections (1) and (2) of this section.

42 **SECTION 12. Section 13 of this 2016 Act is added to and made a part of ORS chapter 238.**

43 **SECTION 13. A participating public employer shall require an employee who established**
 44 **membership in the Public Employees Retirement System before August 29, 2003:**

45 (1) To use sick leave accumulated before the effective date of this 2016 Act before using

1 sick leave accumulated on and after the effective date of this 2016 Act.

2 (2) To use vacation leave accumulated before the effective date of this 2016 Act before
3 using vacation leave accumulated on and after the effective date of this 2016 Act.

4
5 **ASSUMED INTEREST RATE**

6
7 **SECTION 14.** ORS 238.607 is amended to read:

8 238.607. (1) **As often as is necessary to maintain actuarial equivalence, and no less than**
9 once every two calendar years, the Public Employees Retirement Board shall adopt actuarial
10 equivalency factor tables for the purpose of computing the payments to be made to members and
11 their beneficiaries, alternate payees and judge members and their spouses and beneficiaries. The
12 tables may be adopted in conjunction with the system evaluation required by ORS 238.605. Tables
13 adopted under this section must use the best actuarial information on mortality available at the time
14 the board adopts the tables, as provided by the actuary engaged by the board. **The assumed in-**
15 **terest rate used for tables adopted under this section must be equal to the current rate, at**
16 **the time of adoption, for valuing annuity benefits as published from time to time by the**
17 **federal Pension Benefit Guaranty Corporation.** Actuarial equivalency factor tables adopted under
18 this section become effective on January 1 of the calendar year following adoption of the tables by
19 the board **or on another date specified by the board.** All computations of payments must use the
20 actuarial equivalency factor tables that are in effect on:

- 21 (a) The effective date of retirement for any member, judge member or alternate payee;
22 (b) The date that the first payment is due for any death beneficiary; or
23 (c) The date that the first payment is due for any recalculation of payments that is not attrib-
24 utable to error, including but not limited to recalculations under ORS 238.465 (2).

25 (2) The board may not defer or delay implementation of the actuarial equivalency factor tables
26 adopted under this section.

27 **SECTION 15.** **The Public Employees Retirement Board shall first adopt actuarial equiv-**
28 **alency factor tables under ORS 238.607, as amended by section 14 of this 2016 Act, no later**
29 **than January 1, 2017. The board shall use the tables adopted under this section to compute**
30 **the retirement allowances of members, judge members and alternate payees for whom the**
31 **effective date of retirement is on or after the effective date of this 2016 Act but before Jan-**
32 **uary 1, 2017.**

33
34 **DEFINITIONS FOR FAIR RETIREMENT PLAN**

35
36 **SECTION 16.** As used in sections 16 to 35 of this 2016 Act:

37 (1) **“Employee”** has the meaning given that term in ORS 238.005.

38 (2) **“Fair Plan”** means the Fair Retirement Plan established under sections 16 to 35 of
39 **this 2016 Act.**

40 (3) **“Fair Plan member”** means a person who has established membership in the Fair Plan
41 **under section 21 or 32 of this 2016 Act.**

42 (4) **“Firefighter”** means:

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

45 (b) The State Fire Marshal, the chief deputy state fire marshal and deputy state fire

1 marshals; and

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

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

7 (6) "Police officer" means:

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

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

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

14 (d) Corrections officers as defined in ORS 181A.355.

15 (e) Employees at youth correction facilities, as defined in ORS 420.005, whose primary job
 16 description involves the custody, control, treatment, investigation or supervision of juveniles
 17 placed in those facilities.

18
 19 **FAIR RETIREMENT PLAN**

20
 21 **SECTION 17.** (1) The Fair Retirement Plan is established. Notwithstanding any provision
 22 of ORS chapter 238 or 238A, any person who is employed by a participating public employer
 23 on or after January 1, 2017, and who has not established membership in the Public Employees
 24 Retirement System before January 1, 2017, is entitled to receive only the benefits provided
 25 under the Fair Plan for periods of service with participating public employers on and after
 26 January 1, 2017, and has no right or claim to any benefit under ORS chapter 238 or 238A,
 27 except as specifically provided by sections 16 to 35 of this 2016 Act. A person who establishes
 28 membership in the system before January 1, 2017, is entitled to receive the benefits provided
 29 by ORS chapter 238 or 238A.

30 (2) A person establishes membership in the system before January 1, 2017, for the pur-
 31 poses of this section if:

32 (a) The person is a member of the system, or a judge member of the system, on De-
 33 cember 31, 2016; or

34 (b) The person performed any period of service for a participating public employer before
 35 January 1, 2017, that is credited to the six-month period of employment required of an em-
 36 ployee under ORS 238A.100 before an employee may become a member of the system.

37 (3) Except as provided in sections 16 to 35 of this 2016 Act, ORS chapters 238 and 238A
 38 do not apply to the Fair Plan.

39 (4) The provisions of this section do not apply to a person elected or appointed as a
 40 member of the Legislative Assembly, as a justice of the Supreme Court or as a judge of the
 41 Court of Appeals, the Oregon Tax Court or a circuit court.

42
 43 **ADMINISTRATION**

44
 45 **SECTION 18. Fair Retirement Plan administered by Public Employees Retirement Board.**

1 (1) The Fair Retirement Plan is part of the Public Employees Retirement System and is ad-
 2 ministered by the Public Employees Retirement Board.

3 (2) The board shall contract with a private sector firm for the recordkeeping and cus-
 4 tomer service functions of the Fair Plan. The board shall seek a firm that has economical
 5 pricing structures and the experience, knowledge and facilities to properly perform the
 6 functions specified in this subsection.

7 (3) ORS 238.035, 238.156, 238.445, 238.600, 238.601, 238.615, 238.618, 238.630, 238.635, 238.640,
 8 238.645, 238.650, 238.655, 238.700, 238.705, 238.710 and 238.715 apply to the Fair Plan.

9 (4) Amounts contributed by or on behalf of Fair Plan members shall be held separate and
 10 distinct from the General Fund and the Public Employees Retirement Fund, but may be
 11 commingled with the assets of the Public Employees Retirement Fund for investment pur-
 12 poses.

13 **SECTION 19. Administrative costs of Fair Retirement Plan.** (1) The Public Employees
 14 Retirement Board shall implement and administer sections 16 to 35 of this 2016 Act so that:

15 (a) No expense is incurred by participating public employers or by the Public Employees
 16 Retirement Fund for the implementation and administration of the Fair Retirement Plan;
 17 and

18 (b) Participating public employers and the Public Employees Retirement System incur
 19 no liabilities other than those liabilities that are imposed under sections 16 to 35 of this 2016
 20 Act or other law.

21 (2) The system may assess a charge against the member account of a Fair Plan member.
 22 Funds collected pursuant to the charge are continuously appropriated to the board and may
 23 be used only to cover the costs incurred by the system to implement and administer the Fair
 24 Plan.

25
 26 **PARTICIPATION BY PUBLIC EMPLOYERS**
 27

28 **SECTION 20. Participation generally.** (1) All public employers participating in the Public
 29 Employees Retirement System on January 1, 2017:

30 (a) Shall continue to be participating public employers for the purposes of the Fair Re-
 31 tirement Plan; and

32 (b) Shall provide benefits under the Fair Plan for Fair Plan members.

33 (2) Any participating public employer that provided retirement benefits under ORS
 34 chapter 238 or 238A for some, but not all, of the employees of the participating public em-
 35 ployer on December 31, 2016, need not provide benefits under the Fair Plan for any class of
 36 employees who were not members of the system on December 31, 2016.

37 (3) Any public employer that is not a participating public employer on December 31, 2016,
 38 may become a participating public employer under the Fair Plan. A public employer may
 39 become a participating public employer under this subsection only for the purposes of service
 40 performed by employees of the public employer on or after the date the public employer
 41 elects to participate in the Fair Plan.

42
 43 **MEMBERSHIP**
 44

45 **SECTION 21. Establishing membership in Fair Retirement Plan; member account.** (1)

1 Any person who is employed by a participating public employer on or after January 1, 2017,
 2 and who has not established membership in the Public Employees Retirement System before
 3 January 1, 2017, as described in section 17 of this 2016 Act, becomes a member of the Fair
 4 Retirement Plan after completing six full calendar months of employment, unless the em-
 5 ployee elects not to become a Fair Plan member. The six-month probationary period may not
 6 be interrupted by more than 30 consecutive working days.

7 (2) Unless the employee elects not to become a member, upon completion of the six-
 8 month probationary period required by this section, an employee shall become a member of
 9 the Fair Plan on the first day of the next full month following the six-month period.

10 (3) Upon a person's becoming a Fair Plan member under this section, the Public Em-
 11 ployees Retirement Board shall create a member account for the person. The member ac-
 12 count shall consist of employee contributions made under section 22 of this 2016 Act and
 13 employer contributions made under section 23 of this 2016 Act, adjusted to reflect any
 14 earnings or losses on those contributions.

15 16 CONTRIBUTIONS

17
18 **SECTION 22. Employee contribution.** (1) A Fair Plan member may elect to make an em-
 19 ployee contribution to the Fair Retirement Plan equal to a specific percentage of the Fair
 20 Plan member's salary. The percentage may not be more than the amount allowed by the
 21 federal law governing the Fair Plan's tax qualification and must be a whole number.

22 (2) A participating public employer may not assume or pay the employee contribution
 23 provided for in this section, except that a participating public employer may structure the
 24 compensation of the employee in a manner that allows a Fair Plan member who is employed
 25 by the employer to make the employee contribution on a pretax basis.

26 **SECTION 23. Employer contributions.** (1) A participating public employer must contrib-
 27 ute to the Fair Retirement Plan a base amount equal to three percent of the salary of each
 28 Fair Plan member employed by the employer. The base amount must be contributed for all
 29 Fair Plan members, without regard to whether the employee makes any contributions under
 30 section 22 of this 2016 Act.

31 (2) In addition to the base amount required under subsection (1) of this section, for a Fair
 32 Plan member who is not a police officer or firefighter, a participating public employer must
 33 make contributions equal to one percent of a Fair Plan member's salary for every two per-
 34 cent of salary contributed by the Fair Plan member under section 22 of this 2016 Act. In no
 35 event may the total contribution by the employer for a Fair Plan member who is not a police
 36 officer or firefighter exceed an amount equal to six percent of the Fair Plan member's salary.

37 (3) In addition to the base amount required under subsection (1) of this section, for a Fair
 38 Plan member who is a police officer or firefighter, a participating public employer who em-
 39 ploys the Fair Plan member as a police officer or firefighter must make contributions equal
 40 to one and one-third percent of the Fair Plan member's salary for every two percent of sal-
 41 ary contributed by the Fair Plan member under section 22 of this 2016 Act. However, if a
 42 Fair Plan member who is a police officer or firefighter contributes six percent of the Fair
 43 Plan member's salary, the total employer contribution shall be an amount equal to 7.15 per-
 44 cent of the Fair Plan member's salary. In no event may the total contribution by the em-
 45 ployer for a Fair Plan member who is a police officer or firefighter exceed an amount equal

1 to 7.15 percent of the Fair Plan member's salary.

2 **SECTION 24. "Salary" defined.** (1) For the purpose of computing employer and employee
3 contributions under sections 22 and 23 of this 2016 Act, "salary" means the remuneration
4 paid to a Fair Plan member in return for service to the participating public employer, in-
5 cluding remuneration in the form of living quarters, board or other items of value, to the
6 extent the remuneration is includable in the employee's taxable income under Oregon law.
7 "Salary" includes the additional amounts specified in subsection (2) of this section, but does
8 not include the amounts specified in subsection (3) of this section, regardless of whether
9 those amounts are includable in taxable income.

10 (2) For the purpose of computing employer and employee contributions under sections
11 22 and 23 of this 2016 Act, "salary" includes the following amounts:

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

14 (b) Contributions to a tax-sheltered or deferred annuity that are made at the election of
15 the employee.

16 (c) Any amount that is contributed to a cafeteria plan or qualified transportation fringe
17 benefit plan by the employer at the election of the employee and that is not includable in the
18 taxable income of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on the
19 effective date of this 2016 Act.

20 (d) Retroactive payments made to an employee to correct a clerical error, pursuant to
21 an award by a court or by order of or pursuant to a conciliation agreement with an admin-
22 istrative agency charged with enforcing federal or state law protecting the employee's rights
23 to employment or wages, which shall be allocated to and deemed paid in the periods in which
24 the work was done or in which the work would have been done.

25 (3) For the purpose of computing employer and employee contributions under sections
26 22 and 23 of this 2016 Act, "salary" does not include the following amounts:

27 (a) Money paid for overtime or bonuses.

28 (b) Travel expenses or any other expenses incidental to an employer's business that are
29 reimbursed by the employer.

30 (c) Payments made on account of an employee's death.

31 (d) Any lump sum payment for accumulated unused sick leave, vacation leave or other
32 paid leave.

33 (e) Any accelerated payment of an employment contract for a future period or any ad-
34 vance against future wages.

35 (f) Any retirement incentive, retirement severance pay, retirement bonus or retirement
36 gratuitous payment.

37 (g) Payment for a leave of absence after the date the employer and employee have agreed
38 that no future service will be performed.

39 (h) Payments for instructional services rendered to public universities listed in ORS
40 352.002 or the Oregon Health and Science University when those services are in excess of
41 full-time employment subject to sections 16 to 35 of this 2016 Act. A person employed under
42 a contract for less than 12 months is subject to this paragraph only for the months covered
43 by the contract.

44 (i) Any amount in excess of \$200,000 for a calendar year. If any period over which salary
45 is determined is less than 12 months, the \$200,000 limitation for that period shall be multi-

1 plied by a fraction, the numerator of which is the number of months in the determination
 2 period and the denominator of which is 12. The Public Employees Retirement Board shall
 3 adopt rules adjusting this dollar limit to incorporate adjustments authorized by the Internal
 4 Revenue Service.

5 **SECTION 25. Collective bargaining agreements.** Notwithstanding section 22 of this 2016
 6 Act, if a participating public employer is paying employee contributions for employees of the
 7 employer pursuant to ORS 238.205 or 238A.335 under a collective bargaining agreement in
 8 effect on January 1, 2017, the employer shall continue to make those contributions under the
 9 Fair Retirement Plan until such time as the term of the agreement expires. Upon the expi-
 10 ration of the collective bargaining agreement, the participating public employer may not
 11 thereafter “pick-up,” assume or pay the employee contributions.

12 VESTING

13
 14
 15 **SECTION 26. Vesting; loans.** (1) A Fair Plan member vests in employee contributions
 16 when the contributions are made.

17 (2) A Fair Plan member vests in employer contributions when employer contributions
 18 have been made on behalf of the member in each of 54 consecutive months.

19 (3) The Public Employees Retirement Board shall establish a mechanism under which a
 20 Fair Plan member may borrow amounts from the member account established under section
 21 21 of this 2016 Act. A member may borrow only from amounts in which the member has
 22 become vested under this section. The board shall limit loans to terms and conditions allowed
 23 under the tax qualification of the Fair Retirement Plan.

24 INVESTMENT OF MONEYS IN MEMBER ACCOUNTS

25
 26
 27 **SECTION 27. Investment program.** (1) The Oregon Investment Council shall establish a
 28 program for investment of moneys in Fair Plan member accounts. The program shall include
 29 policies and procedures for the investment of moneys in the accounts. The program and all
 30 investments of moneys under the program are subject to the provisions of ORS 293.701 to
 31 293.820.

32 (2) The council shall provide to the Public Employees Retirement Board a description, set
 33 forth in the council’s policies and procedures, of the investment options for moneys in Fair
 34 Plan member accounts, the applicable benchmark for each option and a description of the
 35 characteristics of each benchmark. The council shall provide at least nine different invest-
 36 ment options with a range of investment risks.

37 (3) The provisions of ORS chapter 59 that require registration of securities do not apply
 38 to any share, participation or other interest under the investment program established under
 39 this section. The provisions of ORS chapter 59 that require licensing of certain persons as
 40 broker-dealers or as investment advisers do not apply to any of the following persons or
 41 entities for the purposes of implementing and administering the investment program estab-
 42 lished under this section:

- 43 (a) The Oregon Investment Council.
- 44 (b) The Public Employees Retirement Board.
- 45 (c) The Public Employees Retirement System.

1 (d) The State Treasurer.

2 (e) Any officer or employee of the persons or entities described in paragraphs (a) to (d)
3 of this subsection.

4 **SECTION 28. Self-direction of investments.** A Fair Plan member may elect any invest-
5 ment option offered under the investment program established under section 27 of this 2016
6 Act for all or part of the moneys in a member account. The Public Employees Retirement
7 Board by rule shall provide for the manner in which changes in investment options may be
8 made by a Fair Plan member.

9
10 **WITHDRAWAL OF MEMBER ACCOUNT**

11
12 **SECTION 29. Account may be withdrawn by inactive member at any time after leaving**
13 **public employment.** (1) An inactive Fair Plan member may withdraw the member's account
14 at any time.

15 (2) Withdrawal of a member account under this section cancels all membership rights in
16 the Fair Retirement Plan.

17 (3) If a Fair Plan member withdraws the member account and is subsequently reem-
18 ployed by a participating public employer, the person may reestablish membership under the
19 Fair Plan only for the purposes of service performed after the person is reemployed.

20 (4) A Fair Plan member is inactive for the purposes of this section if the member is
21 separated from all service with participating public employers and with employers that are
22 treated as part of a participating public employer's controlled group under the federal laws
23 and rules governing the status of the Fair Plan as a qualified governmental retirement plan
24 and trust.

25
26 **DEATH BENEFIT**

27
28 **SECTION 30. Death benefit.** (1) If a Fair Plan member dies before retiring, the Public
29 Employees Retirement Board shall pay all money credited at the time of death to the mem-
30 ber account of the member in which the member has become vested under section 26 of this
31 2016 Act to one or more beneficiaries designated by the member. A Fair Plan member may
32 designate as a beneficiary any person, including the personal representative for the estate
33 of the member or a trustee named by the member. The withdrawal of a member's account
34 under section 29 of this 2016 Act invalidates any designation of a beneficiary under this sec-
35 tion.

36 (2) If a Fair Plan member dies before retiring and has not designated a beneficiary under
37 subsection (1) of this section, the board shall pay all money credited at the time of death to
38 the member account of the member in which the member has become vested under section
39 26 of this 2016 Act to the personal representative appointed for the estate of the deceased
40 member. If an affidavit has been filed under ORS 114.505 to 114.560 and the amount of pay-
41 ment does not exceed the maximum amount of personal property for which an affidavit may
42 be filed under ORS 114.505 to 114.560, the board shall pay the amount to the person who filed
43 the affidavit.

44 (3) If a Fair Plan member dies before retiring and has designated a beneficiary under
45 subsection (1) of this section, but the beneficiary dies before the member or dies before dis-

1 tribution is made under this section, the board shall pay the amount of money that would
 2 otherwise have been paid to the beneficiary to the personal representative appointed for the
 3 estate of the deceased beneficiary. If an affidavit has been filed under ORS 114.505 to 114.560
 4 and the amount of money that would have been paid to the beneficiary does not exceed the
 5 maximum amount of personal property for which an affidavit may be filed under ORS 114.505
 6 to 114.560, the board shall pay the amount to the person who filed the affidavit on behalf of
 7 the estate of the beneficiary.

8 (4) Payment by the board of a death benefit in the manner provided by this section
 9 completely discharges the board and the Public Employees Retirement System from any li-
 10 ability for amounts owing by reason of the death of a Fair Plan member.

11 BENEFITS UPON RETIREMENT

12
 13
 14 **SECTION 31. Annuities and other payout options.** The Public Employees Retirement
 15 Board shall by rule provide for annuities and other payout options for retired Fair Plan
 16 members. Annuities offered by the board may be fixed or variable. The board may not offer
 17 any annuity or other payout option that would require that a participating public employer
 18 make any contribution beyond the contributions required by section 23 of this 2016 Act. The
 19 board may not allow a Fair Plan member to receive an annuity or other payout before the
 20 member reaches the minimum retirement age provided for in the Fair Retirement Plan's tax
 21 qualification. The board shall ensure that minimum distribution requirements imposed under
 22 the Fair Plan's tax qualification are met.

23 CONVERSION TO FAIR RETIREMENT PLAN

24
 25
 26 **SECTION 32.** (1) Any employee who establishes membership in the Public Employees
 27 Retirement System before January 1, 2017, described in section 17 of this 2016 Act, and who
 28 is an active member, as defined in ORS 238.005 or 238A.005, may elect to convert the
 29 employee's retirement benefit to the Fair Retirement Plan. Upon conversion, the amounts
 30 in the regular account established for the employee under ORS 238.250, along with a match-
 31 ing amount funded by employer contributions, and any amounts in the variable account es-
 32 tablished for the employee under ORS 238.260 shall be transferred to a member account
 33 established for the employee under section 21 of this 2016 Act.

34 (2) If the Public Employees Retirement Board is informed by the Oregon Investment
 35 Council that the number of conversions elected under this section could negatively affect the
 36 Public Employees Retirement Fund, the board may require that amounts be transferred un-
 37 der this section in not more than five annual installments. Interest shall be paid on the
 38 amounts not immediately transferred at a rate established by the board.

39 BENEFIT INCREASES

40
 41
 42 **SECTION 33. Local government approval of benefit increases.** (1) Any benefit increase
 43 that is described in subsection (2) of this section and that is provided for by laws that become
 44 effective on or after the effective date of this 2016 Act applies to participating public em-
 45 ployers other than the state only if the benefit increase is approved in writing by the par-

1 ticipating public employer. Written approval of the benefit increase must be delivered to the
 2 Public Employees Retirement Board within three months after the session of the Legislative
 3 Assembly that enacted the benefit increase adjourns sine die. If the benefit increase is ap-
 4 proved in the manner provided by this section, the benefit increase becomes operative on
 5 January 1 of the next calendar year.

6 (2) The provisions of this section apply to any change to the benefits provided under
 7 sections 16 to 35 of this 2016 Act that is the result of laws enacted during a single legislative
 8 session, excluding any change that is made solely to maintain the status of the Fair Retirement
 9 Plan as a tax-qualified governmental plan, if the change results in an increase in the
 10 total liability for benefits under the Fair Plan, whether funded or not funded, that is in ex-
 11 cess of one-tenth of one percent.

12 **SECTION 34. Application of benefit increases to legislators.** Any law enacted after Jan-
 13 uary 1, 2017, that has the effect of increasing the total liability for benefits under sections
 14 16 to 35 of this 2016 Act that is in excess of one-tenth of one percent does not apply to ser-
 15 vice by members of the Legislative Assembly that entitles those members to benefits under
 16 sections 16 to 35 of this 2016 Act.

17 18 CONTRACT RIGHTS

19
20 **SECTION 35.** Except as provided in section 33 of this 2016 Act, nothing in sections 16 to
 21 35 of this 2016 Act prevents the Legislative Assembly or the Public Employees Retirement
 22 Board from changing or terminating the retirement benefits payable to persons who become
 23 Fair Plan members on or after January 1, 2017, as described in section 17 of this 2016 Act,
 24 as long as the change or termination applies only to benefits accruing on or after the date
 25 the change or termination is effective.

26 27 TAX QUALIFICATION

28
29 **SECTION 36.** (1) Except as provided in this section, sections 16 to 35 and 37 of this 2016
 30 Act, the amendments to ORS 106.340, 169.810, 173.051, 192.502, 196.165, 237.620, 237.650, 238.105,
 31 238.115, 238.265, 238.445, 238.447, 238.455, 238.460, 238.465, 238.630, 238.645, 238.650, 238.700,
 32 238.705, 238.715, 243.800, 243.830, 268.240, 338.135, 341.290, 341.551, 350.355, 352.129, 352.138,
 33 353.117, 377.836, 396.330, 410.614, 576.306, and 777.775 by sections 38 to 74 of this 2016 Act and
 34 the repeal of ORS 238.750 by section 75 of this 2016 Act become operative on January 1, 2017.

35 (2) As soon as possible after the effective date of this 2016 Act, the Public Employees
 36 Retirement Board shall submit the provisions of sections 16 to 35 of this 2016 Act to the
 37 Internal Revenue Service and seek approval of sections 16 to 35 of this 2016 Act as a qualified
 38 governmental retirement plan and trust under the Internal Revenue Code.

39 (3) As soon as possible after the effective date of this 2016 Act, the board shall adopt all
 40 rules necessary for the implementation and operation of the Fair Retirement Plan.

41 **SECTION 37.** (1) Subject to the provisions of this section, until December 31, 2018, the
 42 Public Employees Retirement System may use assets of the Public Employees Retirement
 43 Fund that are unrelated to sections 16 to 35 of this 2016 Act to pay the administrative costs
 44 of the Fair Retirement Plan.

45 (2) Before January 1, 2023, the Public Employees Retirement Board shall transfer from

1 accounts established under the Fair Retirement Plan the amount used under subsection (1)
 2 of this section, with interest, to accounts in the fund established to provide retirement ben-
 3 efits under ORS chapter 238. The rate of interest must be at least equal to the rate that the
 4 moneys would have earned had the moneys remained invested in the fund established to
 5 provide retirement benefits under ORS chapter 238, and in no event less than two percent
 6 per annum.

7 (3) Until such time as all moneys and interest are repaid under subsection (2) of this
 8 section, beneficiaries of the fund established to provide retirement benefits under ORS
 9 chapter 238 have a security interest in the assets of the Fair Retirement Plan equal to the
 10 amount used under subsection (1) of this section and the interest required under subsection
 11 (2) of this section. The security interest may be foreclosed in an action at law.

12 (4) If the board fails to transfer any amount required under subsection (2) of this section
 13 before January 1, 2023, a person entitled to benefits under ORS chapter 238 may bring a
 14 mandamus action to compel the board to make the transfer and to perform all acts within
 15 the authority of the board to collect employer or employee contributions to the Fair Retire-
 16 ment Plan necessary to fund the transfer.

17 (5) In determining the amount of employer contributions necessary under the Fair Re-
 18 tirement Plan, the board shall include any amounts required to be transferred under sub-
 19 section (2) of this section that are attributable to paying the costs of administering the Fair
 20 Retirement Plan.

21 (6) The board shall deduct from the member accounts established under section 21 of this
 22 2016 Act the amounts to be transferred under subsection (2) of this section that are attrib-
 23 utable to paying the costs of administering the Fair Retirement Plan. The deduction must
 24 be a uniform percentage of the member accounts.

25 CONFORMING AMENDMENTS

26
 27
 28 **SECTION 38.** ORS 106.340 is amended to read:

29 106.340. (1) Any privilege, immunity, right or benefit granted by statute, administrative or court
 30 rule, policy, common law or any other law to an individual because the individual is or was married,
 31 or because the individual is or was an in-law in a specified way to another individual, is granted
 32 on equivalent terms, substantive and procedural, to an individual because the individual is or was
 33 in a domestic partnership or because the individual is or was, based on a domestic partnership, re-
 34 lated in a specified way to another individual.

35 (2) Any responsibility imposed by statute, administrative or court rule, policy, common law or
 36 any other law on an individual because the individual is or was married, or because the individual
 37 is or was an in-law in a specified way to another individual, is imposed on equivalent terms, sub-
 38 stantive and procedural, on an individual because the individual is or was in a domestic partnership
 39 or because the individual is or was, based on a domestic partnership, related in a specified way to
 40 another individual.

41 (3) Any privilege, immunity, right, benefit or responsibility granted or imposed by statute, ad-
 42 ministrative or court rule, policy, common law or any other law to or on a spouse with respect to
 43 a child of either of the spouses is granted or imposed on equivalent terms, substantive and proce-
 44 dural, to or on a partner with respect to a child of either of the partners.

45 (4) Any privilege, immunity, right, benefit or responsibility granted or imposed by statute, ad-

1 ministrative or court rule, policy, common law or any other law to or on a former or surviving
2 spouse with respect to a child of either of the spouses is granted or imposed on equivalent terms,
3 substantive and procedural, to or on a former or surviving partner with respect to a child of either
4 of the partners.

5 (5) Many of the laws of this state are intertwined with federal law, and the Legislative Assembly
6 recognizes that it does not have the jurisdiction to control federal laws or the privileges, immunities,
7 rights, benefits and responsibilities related to federal laws.

8 (6) ORS 106.300 to 106.340 do not require or permit the extension of any benefit under ORS
9 chapter 238 or 238A **or sections 16 to 35 of this 2016 Act**, or under any other retirement, deferred
10 compensation or other employee benefit plan, if the plan administrator reasonably concludes that the
11 extension of benefits would conflict with a condition for tax qualification of the plan, or a condition
12 for other favorable tax treatment of the plan, under the Internal Revenue Code or regulations
13 adopted under the Internal Revenue Code.

14 (7) ORS 106.300 to 106.340 do not require the extension of any benefit under any employee
15 benefit plan that is subject to federal regulation under the Employee Retirement Income Security
16 Act of 1974.

17 (8) For purposes of administering Oregon tax laws, partners in a domestic partnership, surviving
18 partners in a domestic partnership and the children of partners in a domestic partnership have the
19 same privileges, immunities, rights, benefits and responsibilities as are granted to or imposed on
20 spouses in a marriage, surviving spouses and their children.

21 **SECTION 39.** ORS 169.810 is amended to read:

22 169.810. (1) Assumption by the regional correctional facility of those custodial duties formerly
23 performed by a county or city jail constitutes an assumption of duties by a public employer subject
24 to ORS 236.610 to 236.640.

25 (2) An employee who transfers from employment at a county or city jail to employment at a
26 regional correctional facility operated by the county or city by which the employee has been em-
27 ployed shall be accorded the following rights:

28 (a) If a trial or probationary service period is required for employment at the county or city jail,
29 the period of county or city employment of the employee shall apply to that requirement.

30 (b) An employee who transfers from employment at a county or city jail to employment at the
31 regional correctional facility shall retain accumulated unused sick leave with pay and the accumu-
32 lated unused vacation with pay to which the employee was entitled under county or city employment
33 on the day before the transfer that are supported by written records of accumulation and use pur-
34 suant to a plan formally adopted and applicable to the employee under county or city employment.

35 (c) Notwithstanding any other provision of law applicable to a retirement system for county
36 employees or city employees, an employee who transfers from employment at a county or city jail
37 to employment at the regional correctional facility who was participating in a retirement system
38 under county or city employment may elect, not later than the first day of the month following the
39 month in which the employee transfers, to continue under the retirement system in which partic-
40 ipating and not to become, if eligible, a member of another retirement system. The election shall be
41 made in writing and shall be submitted to the regional correctional facility administrator, the Public
42 Employees Retirement Board and the governing body of the counties and cities that operate the
43 regional correctional facility.

44 (d) If an employee elects to continue under the retirement system in which participating under
45 county or city employment, the employee shall continue to make required contributions to that

1 system and the administration of the regional correctional facility shall make contributions on be-
2 half of the employee required of an employer participating in that system.

3 (e) If an employee fails to elect to continue under the retirement system in which participating
4 under county or city employment as provided in paragraph (c) of this subsection or was not partic-
5 ipating in a retirement system under county or city employment, the employee shall become, if eli-
6 gible, a member of the Public Employees Retirement System. If the employee is eligible to become
7 a member of the Public Employees Retirement System, the period of continuous service of the em-
8 ployee under county or city employment immediately before the transfer of the employee shall apply
9 to the six months' service requirement of ORS 238.015, 238A.100 or 238A.300 (1) **or section 21 of**
10 **this 2016 Act.**

11 (3) The county or city employment records, or a copy thereof, applicable to an employee trans-
12 ferred under subsection (2) of this section shall be provided by the person having custody of the
13 records to the regional correctional facility administrator.

14 **SECTION 40.** ORS 173.051 is amended to read:

15 173.051. The Legislative Fiscal Officer, with the aid of the Public Employees Retirement Board
16 and public employers providing benefits under ORS chapter 238A **or sections 16 to 35 of this 2016**
17 **Act**, shall prepare a fiscal impact statement on each measure reported out of a committee of the
18 Legislative Assembly that would increase employer contributions under ORS chapter 238A **or**
19 **sections 16 to 35 of this 2016 Act.** If the Legislative Fiscal Officer determines that a proposed
20 measure would result in an increase in the total liability for benefits under ORS chapter 238A **or**
21 **sections 16 to 35 of this 2016 Act** that is in excess of one-tenth of one percent, the Legislative
22 Fiscal Officer shall promptly notify the Public Employees Retirement Board. The board shall there-
23 after promptly give notice of the proposed measure, and the fiscal impact of the proposed measure
24 as determined by the Legislative Fiscal Officer, to all public employers providing benefits under ORS
25 chapter 238A **or sections 16 to 35 of this 2016 Act.**

26 **SECTION 41.** ORS 192.502 is amended to read:

27 192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

28 (1) Communications within a public body or between public bodies of an advisory nature to the
29 extent that they cover other than purely factual materials and are preliminary to any final agency
30 determination of policy or action. This exemption shall not apply unless the public body shows that
31 in the particular instance the public interest in encouraging frank communication between officials
32 and employees of public bodies clearly outweighs the public interest in disclosure.

33 (2) Information of a personal nature such as but not limited to that kept in a personal, medical
34 or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the
35 public interest by clear and convincing evidence requires disclosure in the particular instance. The
36 party seeking disclosure shall have the burden of showing that public disclosure would not consti-
37 tute an unreasonable invasion of privacy.

38 (3) Upon compliance with ORS 192.437, public body employee or volunteer residential addresses,
39 residential telephone numbers, personal cellular telephone numbers, personal electronic mail ad-
40 dresses, driver license numbers, employer-issued identification card numbers, emergency contact in-
41 formation, Social Security numbers, dates of birth and other telephone numbers contained in
42 personnel records maintained by the public body that is the employer or the recipient of volunteer
43 services. This exemption:

44 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-
45 unteers who are elected officials, except that a judge or district attorney subject to election may

1 seek to exempt the judge's or district attorney's address or telephone number, or both, under the
2 terms of ORS 192.445;

3 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure
4 shows by clear and convincing evidence that the public interest requires disclosure in a particular
5 instance pursuant to ORS 192.437;

6 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-
7 fessional education association of which the substitute teacher may be a member; and

8 (d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

9 (4) Information submitted to a public body in confidence and not otherwise required by law to
10 be submitted, where such information should reasonably be considered confidential, the public body
11 has obliged itself in good faith not to disclose the information, and when the public interest would
12 suffer by the disclosure.

13 (5) Information or records of the Department of Corrections, including the State Board of Parole
14 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of
15 a person in custody of the department or substantially prejudice or prevent the carrying out of the
16 functions of the department, if the public interest in confidentiality clearly outweighs the public in-
17 terest in disclosure.

18 (6) Records, reports and other information received or compiled by the Director of the Depart-
19 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not
20 otherwise required by law to be made public, to the extent that the interests of lending institutions,
21 their officers, employees and customers in preserving the confidentiality of such information out-
22 weighs the public interest in disclosure.

23 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

24 (8) Any public records or information the disclosure of which is prohibited by federal law or
25 regulations.

26 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-
27 wise made confidential or privileged under Oregon law.

28 (b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply to factual information
29 compiled in a public record when:

30 (A) The basis for the claim of exemption is ORS 40.225;

31 (B) The factual information is not prohibited from disclosure under any applicable state or fed-
32 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.410
33 to 192.505;

34 (C) The factual information was compiled by or at the direction of an attorney as part of an
35 investigation on behalf of the public body in response to information of possible wrongdoing by the
36 public body;

37 (D) The factual information was not compiled in preparation for litigation, arbitration or an
38 administrative proceeding that was reasonably likely to be initiated or that has been initiated by
39 or against the public body; and

40 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement
41 characterizing or partially disclosing the factual information compiled by or at the attorney's di-
42 rection.

43 (10) Public records or information described in this section, furnished by the public body ori-
44 ginally compiling, preparing or receiving them to any other public officer or public body in con-
45 nection with performance of the duties of the recipient, if the considerations originally giving rise

1 to the confidential or exempt nature of the public records or information remain applicable.

2 (11) Records of the Energy Facility Siting Council concerning the review or approval of security
3 programs pursuant to ORS 469.530.

4 (12) Employee and retiree address, telephone number and other nonfinancial membership records
5 and employee financial records maintained by the Public Employees Retirement System pursuant to
6 ORS chapters 238 and 238A **and sections 16 to 35 of this 2016 Act.**

7 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the
8 agents of the treasurer or the council relating to active or proposed publicly traded investments
9 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or
10 liquidation of the investments. For the purposes of this subsection:

11 (a) The exemption does not apply to:

12 (A) Information in investment records solely related to the amount paid directly into an invest-
13 ment by, or returned from the investment directly to, the treasurer or council; or

14 (B) The identity of the entity to which the amount was paid directly or from which the amount
15 was received directly.

16 (b) An investment in a publicly traded investment is no longer active when acquisition, exchange
17 or liquidation of the investment has been concluded.

18 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the
19 Oregon Growth Board or the agents of the treasurer, council or board relating to actual or proposed
20 investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset
21 including but not limited to records regarding the solicitation, acquisition, deployment, exchange or
22 liquidation of the investments including but not limited to:

23 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership
24 or to their respective investment vehicles.

25 (B) Financial statements of an investment fund, an asset ownership or their respective invest-
26 ment vehicles.

27 (C) Meeting materials of an investment fund, an asset ownership or their respective investment
28 vehicles.

29 (D) Records containing information regarding the portfolio positions in which an investment
30 fund, an asset ownership or their respective investment vehicles invest.

31 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-
32 spective investment vehicles.

33 (F) Investment agreements and related documents.

34 (b) The exemption under this subsection does not apply to:

35 (A) The name, address and vintage year of each privately placed investment fund.

36 (B) The dollar amount of the commitment made to each privately placed investment fund since
37 inception of the fund.

38 (C) The dollar amount of cash contributions made to each privately placed investment fund since
39 inception of the fund.

40 (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State
41 Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer,
42 council or board from each privately placed investment fund.

43 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately
44 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment
45 Council, the Oregon Growth Board or the agents of the treasurer, council or board.

1 (F) The net internal rate of return of each privately placed investment fund since inception of
 2 the fund.

3 (G) The investment multiple of each privately placed investment fund since inception of the fund.

4 (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end
 5 basis to each privately placed investment fund.

6 (I) The dollar amount of cash profit received from each privately placed investment fund on a
 7 fiscal year-end basis.

8 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the
 9 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as
 10 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

11 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted
 12 by ORS 98.352.

13 (17)(a) The following records, communications and information submitted to the Oregon Business
 14 Development Commission, the Oregon Business Development Department, the State Department of
 15 Agriculture, the Oregon Growth Board, the Port of Portland or other ports as defined in ORS
 16 777.005, or a county or city governing body and any board, department, commission, council or
 17 agency thereof, by applicants for investment funds, grants, loans, services or economic development
 18 moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

19 (A) Personal financial statements.

20 (B) Financial statements of applicants.

21 (C) Customer lists.

22 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
 23 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
 24 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
 25 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
 26 ery or deposition statutes to a party to litigation or potential litigation.

27 (E) Production, sales and cost data.

28 (F) Marketing strategy information that relates to applicant's plan to address specific markets
 29 and applicant's strategy regarding specific competitors.

30 (b) The following records, communications and information submitted to the State Department
 31 of Energy by applicants for tax credits or for grants awarded under ORS 469B.256:

32 (A) Personal financial statements.

33 (B) Financial statements of applicants.

34 (C) Customer lists.

35 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
 36 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
 37 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
 38 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
 39 ery or deposition statutes to a party to litigation or potential litigation.

40 (E) Production, sales and cost data.

41 (F) Marketing strategy information that relates to applicant's plan to address specific markets
 42 and applicant's strategy regarding specific competitors.

43 (18) Records, reports or returns submitted by private concerns or enterprises required by law
 44 to be submitted to or inspected by a governmental body to allow it to determine the amount of any
 45 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such

1 information is in a form which would permit identification of the individual concern or enterprise.
2 Nothing in this subsection shall limit the use which can be made of such information for regulatory
3 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-
4 payer of the delinquency immediately by certified mail. However, in the event that the payment or
5 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the
6 public body shall disclose, upon the request of any person, the following information:

7 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the
8 payment or delivery of the taxes.

9 (b) The period for which the taxes are delinquent.

10 (c) The actual, or estimated, amount of the delinquency.

11 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-
12 pointed counsel, and all information supplied to the court from whatever source for the purpose of
13 verifying the financial eligibility of a person pursuant to ORS 151.485.

14 (20) Workers' compensation claim records of the Department of Consumer and Business Services,
15 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-
16 ness Services, in any of the following circumstances:

17 (a) When necessary for insurers, self-insured employers and third party claim administrators to
18 process workers' compensation claims.

19 (b) When necessary for the director, other governmental agencies of this state or the United
20 States to carry out their duties, functions or powers.

21 (c) When the disclosure is made in such a manner that the disclosed information cannot be used
22 to identify any worker who is the subject of a claim.

23 (d) When a worker or the worker's representative requests review of the worker's claim record.

24 (21) Sensitive business records or financial or commercial information of the Oregon Health and
25 Science University that is not customarily provided to business competitors.

26 (22) Records of Oregon Health and Science University regarding candidates for the position of
27 president of the university.

28 (23) The records of a library, including:

29 (a) Circulation records, showing use of specific library material by a named person;

30 (b) The name of a library patron together with the address or telephone number of the patron;
31 and

32 (c) The electronic mail address of a patron.

33 (24) The following records, communications and information obtained by the Housing and Com-
34 munity Services Department in connection with the department's monitoring or administration of
35 financial assistance or of housing or other developments:

36 (a) Personal and corporate financial statements and information, including tax returns.

37 (b) Credit reports.

38 (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an
39 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed
40 of as part of the project, but only after the transactions have closed and are concluded.

41 (d) Market studies and analyses.

42 (e) Articles of incorporation, partnership agreements and operating agreements.

43 (f) Commitment letters.

44 (g) Project pro forma statements.

45 (h) Project cost certifications and cost data.

- 1 (i) Audits.
- 2 (j) Project tenant correspondence.
- 3 (k) Personal information about a tenant.
- 4 (L) Housing assistance payments.

5 (25) Raster geographic information system (GIS) digital databases, provided by private forestland
 6 owners or their representatives, voluntarily and in confidence to the State Forestry Department,
 7 that is not otherwise required by law to be submitted.

8 (26) Sensitive business, commercial or financial information furnished to or developed by a
 9 public body engaged in the business of providing electricity or electricity services, if the information
 10 is directly related to a transaction described in ORS 261.348, or if the information is directly related
 11 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
 12 disclosure of the information would cause a competitive disadvantage for the public body or its re-
 13 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
 14 velopment or review of generally applicable rate schedules.

15 (27) Sensitive business, commercial or financial information furnished to or developed by the
 16 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath
 17 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085
 18 and disclosure of the information would cause a competitive disadvantage for the Klamath
 19 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-
 20 ment or review of generally applicable rate schedules.

21 (28) Personally identifiable information about customers of a municipal electric utility or a
 22 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,
 23 electronic mail addresses or Social Security numbers of customers who receive water, sewer or
 24 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-
 25 lease personally identifiable information about a customer, and a public body providing water, sewer
 26 or storm drain services may release the name, date of birth, driver license number, telephone num-
 27 ber, electronic mail address or Social Security number of a customer, if the customer consents in
 28 writing or electronically, if the disclosure is necessary for the utility, district or other public body
 29 to render services to the customer, if the disclosure is required pursuant to a court order or if the
 30 disclosure is otherwise required by federal or state law. The utility, district or other public body
 31 may charge as appropriate for the costs of providing such information. The utility, district or other
 32 public body may make customer records available to third party credit agencies on a regular basis
 33 in connection with the establishment and management of customer accounts or in the event such
 34 accounts are delinquent.

35 (29) A record of the street and number of an employee's address submitted to a special district
 36 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

37 (30) Sensitive business records, capital development plans or financial or commercial information
 38 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

39 (31) Documents, materials or other information submitted to the Director of the Department of
 40 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory
 41 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates
 42 or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200
 43 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code
 44 when:

- 45 (a) The document, material or other information is received upon notice or with an under-

1 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of
2 the document, material or other information; and

3 (b) The director has obligated the Department of Consumer and Business Services not to dis-
4 close the document, material or other information.

5 (32) A county elections security plan developed and filed under ORS 254.074.

6 (33) Information about review or approval of programs relating to the security of:

7 (a) Generation, storage or conveyance of:

8 (A) Electricity;

9 (B) Gas in liquefied or gaseous form;

10 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

11 (D) Petroleum products;

12 (E) Sewage; or

13 (F) Water.

14 (b) Telecommunication systems, including cellular, wireless or radio systems.

15 (c) Data transmissions by whatever means provided.

16 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court des-
17 ignates the information as confidential by rule under ORS 1.002.

18 (35)(a) Employer account records of the State Accident Insurance Fund Corporation.

19 (b) As used in this subsection, "employer account records" means all records maintained in any
20 form that are specifically related to the account of any employer insured, previously insured or un-
21 der consideration to be insured by the State Accident Insurance Fund Corporation and any infor-
22 mation obtained or developed by the corporation in connection with providing, offering to provide
23 or declining to provide insurance to a specific employer. "Employer account records" includes, but
24 is not limited to, an employer's payroll records, premium payment history, payroll classifications,
25 employee names and identification information, experience modification factors, loss experience and
26 dividend payment history.

27 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
28 discovery documents in litigation pursuant to applicable rules of civil procedure.

29 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

30 (b) As used in this subsection, "claimant files" includes, but is not limited to, all records held
31 by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all
32 records pertaining to such a claim.

33 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
34 discovery documents in litigation pursuant to applicable rules of civil procedure.

35 (37) Except as authorized by ORS 408.425, records that certify or verify an individual's discharge
36 or other separation from military service.

37 (38) Records of or submitted to a domestic violence service or resource center that relate to the
38 name or personal information of an individual who visits a center for service, including the date of
39 service, the type of service received, referrals or contact information or personal information of a
40 family member of the individual. As used in this subsection, "domestic violence service or resource
41 center" means an entity, the primary purpose of which is to assist persons affected by domestic or
42 sexual violence by providing referrals, resource information or other assistance specifically of ben-
43 efit to domestic or sexual violence victims.

44 (39) Information reported to the Oregon Health Authority under ORS 431A.860, except as pro-
45 vided in ORS 431A.860 (2)(b) information disclosed by the authority under ORS 431A.865 and any

1 information related to disclosures made by the authority under ORS 431A.865, including information
2 identifying the recipient of the information.

3 (40)(a) Electronic mail addresses in the possession or custody of an agency or subdivision of the
4 executive department, as defined in ORS 174.112, a local government or local service district, as
5 defined in ORS 174.116, or a special government body, as defined in ORS 174.117.

6 (b) This subsection does not apply to electronic mail addresses assigned by a public body to
7 public employees for use by the employees in the ordinary course of their employment.

8 (41) Residential addresses, residential telephone numbers, personal cellular telephone numbers,
9 personal electronic mail addresses, driver license numbers, emergency contact information, Social
10 Security numbers, dates of birth and other telephone numbers of individuals currently or previously
11 certified or licensed by the Department of Public Safety Standards and Training contained in the
12 records maintained by the department.

13 (42) Personally identifiable information and contact information of veterans as defined in ORS
14 408.225 and of persons serving on active duty or as reserve members with the Armed Forces of the
15 United States, National Guard or other reserve component that was obtained by the Department of
16 Veterans' Affairs in the course of performing its duties and functions, including but not limited to
17 names, residential and employment addresses, dates of birth, driver license numbers, telephone
18 numbers, electronic mail addresses, Social Security numbers, marital status, dependents, the char-
19 acter of discharge from military service, military rating or rank, that the person is a veteran or has
20 provided military service, information relating to an application for or receipt of federal or state
21 benefits, information relating to the basis for receipt or denial of federal or state benefits and in-
22 formation relating to a home loan or grant application, including but not limited to financial infor-
23 mation provided in connection with the application.

24 **SECTION 42.** ORS 196.165 is amended to read:

25 196.165. (1) The Columbia River Gorge Commission established under ORS 196.150 may designate
26 its employees as employees and the commission as an employer subject to the Oregon Public Em-
27 ployees Retirement System under ORS chapters 238 and 238A **and sections 16 to 35 of this 2016**
28 **Act** or as an employer and employees subject to a retirement system provided by the State of
29 Washington under the laws of the State of Washington.

30 (2) The commission may designate its employees as employees eligible under benefit plans pro-
31 vided under ORS 243.105 to 243.285 or under benefit plans provided under the laws of the State of
32 Washington.

33 **SECTION 43.** ORS 237.620 is amended to read:

34 237.620. (1) Except as provided in this section, all public employers of police officers or fire-
35 fighters shall provide retirement benefits to those employees under the Public Employees Retirement
36 System.

37 (2) Notwithstanding subsection (1) of this section, a public employer of police officers or fire-
38 fighters need not provide retirement benefits to those employees under the Public Employees Re-
39 tirement System if the Public Employees Retirement Board determines that the public employer
40 provides retirement benefits to each of the following classes of employees that are equal to or better
41 than the retirement benefits that would be provided to the equivalent classes of employees under the
42 Public Employees Retirement System:

43 (a) Police officers or firefighters who are entitled to receive benefits only under ORS chapter
44 238 and who established membership in the system before January 1, 1996, as described in ORS
45 238.430 (2);

1 (b) Police officers or firefighters who are entitled to receive benefits only under ORS chapter
 2 238 and who established membership in the system on or after January 1, 1996, and before August
 3 29, 2003, as described in ORS 238A.025 (4); and

4 (c) Police officers or firefighters who establish membership in the system on or after August 29,
 5 2003, and are entitled to benefits only under the Oregon Public Service Retirement Plan.

6 **(d) Police officers or firefighters who establish membership in the system on or after the**
 7 **effective date of this 2016 Act, and are entitled to benefits only under sections 16 to 35 of this**
 8 **2016 Act.**

9 (3) A public employer that provides retirement benefits under subsection (2) of this section must
 10 provide that:

11 (a) If an employee to whom the public employer provides retirement benefits dies before the
 12 employee's effective date of retirement, a former spouse of the employee is entitled to a death ben-
 13 efit if and to the extent provided for in the terms of any judgment of annulment or dissolution of
 14 marriage or of separation, or the terms of any court order or court-approved property settlement
 15 agreement incident to any judgment of annulment or dissolution of marriage or of separation, as if
 16 the former spouse were the surviving spouse of the employee, as provided in ORS 237.600.

17 (b) If an employee to whom the public employer provides retirement benefits dies before the
 18 employee's effective date of retirement and has a dependent child who is not supported by the for-
 19 mer spouse who is treated as the surviving spouse under paragraph (a) of this subsection, the de-
 20 pendent child is entitled to a death benefit.

21 (4) Notwithstanding subsection (3) of this section, a former spouse or dependent child of an
 22 employee is not entitled to a death benefit if, before the death of the employee, the former spouse
 23 or dependent child has commenced receiving a retirement benefit provided for in the terms of any
 24 judgment of annulment or dissolution of marriage or of separation, or the terms of any court order
 25 or court-approved property settlement agreement incident to any judgment of annulment or dissol-
 26 ution of marriage or of separation, as provided in ORS 237.600.

27 (5) At such times as may be established by board rule, the Public Employees Retirement Board
 28 shall review the retirement benefits provided by a public employer of police officers or firefighters
 29 that does not provide retirement benefits for those employees under the Public Employees Retire-
 30 ment System. The review must be conducted at the expense of the public employer. Based on the
 31 review, the board shall determine whether the public employer complies with the requirements of
 32 subsection (2) of this section. If the board determines that the public employer does not comply with
 33 the requirements of subsection (2) of this section for any class of employees described in subsection
 34 (2) of this section, the public employer must provide that class of employees with retirement benefits
 35 adequate to meet the requirements of subsection (2) of this section. If the public employer fails to
 36 provide those benefits, any employee within the class may bring an action in circuit court to compel
 37 compliance with the requirements of this section.

38 **SECTION 44.** ORS 237.650 is amended to read:

39 237.650. (1) Except as provided in this section, a person who is appointed or elected as a member
 40 of the Legislative Assembly and who is a member of the Public Employees Retirement System at the
 41 time of the appointment or election may make a retirement plan election in the manner provided
 42 by this section. If a person who is permitted to make an election under this section does not make
 43 a retirement plan election under subsection (2), (3), (4), [or] (5), **(6) or (7)** of this section, the person
 44 is deemed to have elected a retirement plan as provided in subsection [(6)] **(8)** of this section.

45 (2) An active or inactive member of the Public Employees Retirement System who is appointed

1 or elected as a member of the Legislative Assembly, and who established membership in the system
2 before August 29, 2003, as described in ORS 238A.025, may:

3 (a) Elect to remain a member of the system under ORS chapter 238 for the purpose of service
4 in the Legislative Assembly;

5 (b) Decline to remain a member of the system under ORS chapter 238 and elect to become a
6 legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of
7 service in the Legislative Assembly; or

8 (c) Decline to remain a member of the system under ORS chapter 238 or to become a legislator
9 member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the
10 Legislative Assembly.

11 (3) A retired member of the Public Employees Retirement System who is appointed or elected
12 as a member of the Legislative Assembly, and who established membership in the system before
13 August 29, 2003, as described in ORS 238A.025, may:

14 (a) Elect to become an active member of the system under ORS chapter 238 for the purpose of
15 service in the Legislative Assembly;

16 (b) Decline to become an active member of the system under ORS chapter 238 and elect to be-
17 come a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose
18 of service in the Legislative Assembly; or

19 (c) Decline to become an active member of the system under ORS chapter 238 or to become a
20 legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of
21 service in the Legislative Assembly.

22 (4) An active or inactive member of the Public Employees Retirement System who is appointed
23 or elected as a member of the Legislative Assembly, and who established membership in the system
24 on or after August 29, 2003, as described in ORS 238A.025, **and before January 1, 2017, as de-**
25 **scribed in section 17 of this 2016 Act**, may:

26 (a) Elect to remain a member of the system under ORS chapter 238A for the purpose of service
27 in the Legislative Assembly;

28 (b) Decline to remain a member of the system under ORS chapter 238A and elect to become a
29 legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of
30 service in the Legislative Assembly; or

31 (c) Decline to remain a member of the system under ORS chapter 238A or to become a legislator
32 member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the
33 Legislative Assembly.

34 (5) A retired member of the Public Employees Retirement System who is appointed or elected
35 as a member of the Legislative Assembly, and who established membership in the system on or after
36 August 29, 2003, as described in ORS 238A.025, **and before January 1, 2017, as described in sec-**
37 **tion 17 of this 2016 Act**, may:

38 (a) Elect to become an active member of the system under ORS chapter 238A for the purpose
39 of service in the Legislative Assembly;

40 (b) Decline to become an active member of the system under ORS chapter 238A and elect to
41 become a legislator member of the state deferred compensation plan under ORS 237.655 for the
42 purpose of service in the Legislative Assembly; or

43 (c) Decline to become an active member of the system under ORS chapter 238A or to become
44 a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of
45 service in the Legislative Assembly.

1 **(6) An active or inactive member of the Public Employees Retirement System who is**
 2 **appointed or elected as a member of the Legislative Assembly, and who established mem-**
 3 **bership in the system on or after January 1, 2017, may:**

4 **(a) Elect to remain a member of the system under sections 16 to 35 of this 2016 Act for**
 5 **the purpose of service in the Legislative Assembly;**

6 **(b) Decline to remain a member of the system under sections 16 to 35 of this 2016 Act**
 7 **and elect to become a legislator member of the state deferred compensation plan under ORS**
 8 **237.655 for the purpose of service in the Legislative Assembly; or**

9 **(c) Decline to remain a member of the system under sections 16 to 35 of this 2016 Act**
 10 **or to become a legislator member of the state deferred compensation plan under ORS 237.655**
 11 **for the purpose of service in the Legislative Assembly.**

12 **(7) A retired member of the Public Employees Retirement System who is appointed or**
 13 **elected as a member of the Legislative Assembly, and who established membership in the**
 14 **system on or after January 1, 2017, may:**

15 **(a) Elect to become an active member of the system under sections 16 to 35 of this 2016**
 16 **Act for the purpose of service in the Legislative Assembly;**

17 **(b) Decline to become an active member of the system under sections 16 to 35 of this 2016**
 18 **Act and elect to become a legislator member of the state deferred compensation plan under**
 19 **ORS 237.655 for the purpose of service in the Legislative Assembly; or**

20 **(c) Decline to become an active member of the system under sections 16 to 35 of this 2016**
 21 **Act or to become a legislator member of the state deferred compensation plan under ORS**
 22 **237.655 for the purpose of service in the Legislative Assembly.**

23 **[(6)] (8) Written notice of an election under subsection (2), (3), (4) [or], (5), (6) or (7) of this**
 24 **section must be given to the Public Employees Retirement Board not more than 30 days after the**
 25 **person takes office. If the board does not receive written notice of the election within 30 days after**
 26 **the person takes office:**

27 **(a) A person described in subsection (2) of this section is deemed to have elected to remain a**
 28 **member of the Public Employees Retirement System under ORS chapter 238 for the purpose of ser-**
 29 **vice in the Legislative Assembly.**

30 **(b) A person described in subsection (3) of this section is deemed to have declined to become**
 31 **an active member of the system under ORS chapter 238 or to become a legislator member of the**
 32 **state deferred compensation plan under ORS 237.655, and remains a retired member of the system**
 33 **under ORS chapter 238 for the purpose of service in the Legislative Assembly.**

34 **(c) A person described in subsection (4) of this section is deemed to have elected to remain a**
 35 **member of the Public Employees Retirement System under ORS chapter 238A for the purpose of**
 36 **service in the Legislative Assembly.**

37 **(d) A person described in subsection (5) of this section is deemed to have declined to become**
 38 **an active member of the system under ORS chapter 238A or to become a legislator member of the**
 39 **state deferred compensation plan under ORS 237.655, and remains a retired member of the system**
 40 **under ORS chapter 238A for the purpose of service in the Legislative Assembly.**

41 **(e) A person described in subsection (6) of this section is deemed to have elected to re-**
 42 **main a member of the Public Employees Retirement System under sections 16 to 35 of this**
 43 **2016 Act for the purpose of service in the Legislative Assembly.**

44 **(f) A person described in subsection (7) of this section is deemed to have declined to be-**
 45 **come an active member of the system under sections 16 to 35 of this 2016 Act or to become**

1 **a legislator member of the state deferred compensation plan under ORS 237.655, and remains**
 2 **a retired member of the system under sections 16 to 35 of this 2016 Act for the purpose of**
 3 **service in the Legislative Assembly.**

4 [(7)] (9) An election under subsection (3)(b) or (c) [or], (5)(b) or (c) **or (7)(b) or (c)** of this section
 5 does not affect the status of a person as a retired member of the system and a recipient of retire-
 6 ment benefits under ORS chapter 238 or 238A **or sections 16 to 35 of this 2016 Act.**

7 [(8)] (10) An election under this section does not affect the ability of a person appointed or
 8 elected as a member of the Legislative Assembly to participate in the state deferred compensation
 9 plan in the manner provided by ORS 243.401 to 243.507 as other than a legislator member under ORS
 10 237.655.

11 **SECTION 45.** ORS 238.105 is amended to read:

12 238.105. (1) Whenever, within five years after the employee is separated from all service entitling
 13 the employee to membership in the system, an employee who has withdrawn the amount credited to
 14 the member account of the member reenters the service of an employer participating in the system,
 15 the employee's rights in the system that were forfeited by the withdrawal shall be restored upon
 16 repaying to the board within one year after reentering the service of the employer, the full amount
 17 so withdrawn together with the interest that would have been accumulated on the sum had the
 18 amount not been withdrawn.

19 (2) Restoration of rights under this section does not affect any forfeiture of rights of a person
 20 by reason of:

21 (a) Withdrawal of an account established under ORS 238.440;

22 (b) Withdrawal from the pension program under ORS 238A.120; [or]

23 (c) Withdrawal of individual accounts pursuant to ORS 238A.375; **or**

24 **(d) Withdrawal of member accounts under section 29 of this 2016 Act.**

25 **SECTION 46.** ORS 238.115 is amended to read:

26 238.115. (1)(a) A member of the system who, after separation from all service entitling the em-
 27 ployee to membership in the system and withdrawal of the amount credited to the member account
 28 of the member, reenters the service of an employer participating in the system and serves as an
 29 active member of the system for 10 years after that reentry, and who has not otherwise obtained
 30 restoration of creditable service forfeited by the withdrawal, shall obtain restoration of one full
 31 month of creditable service forfeited by the withdrawal for each three full months of service as an
 32 active member after that reentry if the member, within 90 days before the effective date of retire-
 33 ment of the member:

34 (A) Applies in writing to the board for restoration of creditable service; and

35 (B) Pays to the board in a lump sum for credit to the member account of the member the amount
 36 withdrawn and interest on the amount withdrawn compounded annually for each year or portion of
 37 a year after the date of the withdrawal and before the effective date of retirement of the member.
 38 The interest shall be computed at the annual rate of 7.5 percent.

39 (b) If a member who obtains restoration of creditable service as provided in this subsection does
 40 not obtain restoration of all creditable service forfeited by the withdrawal pursuant to service after
 41 reentry, the payment under paragraph (a) of this subsection shall be reduced proportionately to re-
 42 flect the percentage of creditable service restored.

43 (c) A member who obtains restoration of creditable service as provided in this subsection is not
 44 entitled to elect to receive the service retirement benefit described in ORS 238.305 (2) or (3).

45 (2) A member who forfeited creditable service rendered to a public employer before March 27,

1 1953, because under ORS 237.976 (2) the employee withdrew contributions of the employee to the
 2 Public Employees Retirement System established by chapter 401, Oregon Laws 1945, and who did
 3 not obtain restoration of creditable service so forfeited as provided in chapter 857, Oregon Laws
 4 1977, shall, upon retirement, receive restoration of creditable service so forfeited, if the member,
 5 before the effective date of retirement of the member:

6 (a) Applies in writing to the board for the restoration of the creditable service; and

7 (b) Pays to the board in a lump sum for credit to the member account of the member an amount
 8 determined by the board to be equal to the full amount of contributions so withdrawn and the in-
 9 terest that would have accumulated to the regular account of the member had those contributions
 10 not been withdrawn.

11 (3)(a) A member of the Public Employees Retirement System who was a member of an associ-
 12 ation established pursuant to ORS chapter 239 (1997 Edition), but separated from all service entitl-
 13 ing the employee to membership in the system of the association and withdrew the amount credited
 14 to the member account of the employee in the retirement fund of the association, and who, after that
 15 separation, entered the service of an employer in the field of education participating in the Public
 16 Employees Retirement System and served as an active member of that system for 10 years after that
 17 entry, and who has not otherwise obtained restoration of all creditable service forfeited by the
 18 withdrawal, shall obtain creditable service as a member of the Public Employees Retirement System
 19 equal to all creditable service forfeited by the withdrawal if the member within 90 days before the
 20 effective date of retirement of the member:

21 (A) Applies in writing to the Public Employees Retirement Board for that creditable service; and

22 (B) Pays to the board in a lump sum for credit to the member account of the member the amount
 23 withdrawn and interest on the amount withdrawn compounded annually for each year or portion of
 24 a year after the date of the withdrawal and before the effective date of retirement or effective date
 25 of application of the member. The interest shall be computed at the rate actually credited to regular
 26 accounts for that period.

27 (b) This subsection provides a method of obtaining creditable service for forfeited creditable
 28 service described in this subsection that is in lieu of any application of subsection (1) of this section
 29 for that purpose.

30 (4) Restoration of creditable service under this section does not affect any forfeiture of rights
 31 of a person by reason of:

32 (a) Withdrawal of an account established under ORS 238.440;

33 (b) Withdrawal from the pension program under ORS 238A.120; [or]

34 (c) Withdrawal of individual accounts pursuant to ORS 238A.375; or

35 **(d) Withdrawal of member accounts under section 29 of this 2016 Act.**

36 **SECTION 47.** ORS 238.265 is amended to read:

37 238.265. (1) Except as otherwise provided in this section, a member of the Public Employees
 38 Retirement System may withdraw from the Public Employees Retirement Fund the amount credited
 39 to the member account, if any, for the member if:

40 (a) The member is separated from all service with participating public employers;

41 (b) The member is separated from all service with employers who are treated as part of a par-
 42 ticipating public employer's controlled group under the federal laws and rules governing the status
 43 of the system and the fund as a qualified governmental retirement plan and trust;

44 (c) The member has not attained earliest service retirement age; and

45 (d) The separation from service is not by reason of death or disability.

1 (2) If a member wishes to withdraw the member account, if any, of the member under this sec-
 2 tion, the member must transmit to the Public Employees Retirement Board a withdrawal request.
 3 The board shall deny the withdrawal, or shall take all reasonable steps to recover withdrawn
 4 amounts, if:

5 (a) The board determines that the separation is not a bona fide separation; or

6 (b) The member fails to remain absent from the service of all employers described in subsection
 7 (1) of this section for at least one calendar month following the month in which the member sepa-
 8 rates from service.

9 (3) If a member has contributed to the fund in each of five calendar years and has separated
 10 from all service in the manner described in subsection (1) of this section before reaching earliest
 11 service retirement age, the member may elect to withdraw the member account of the member under
 12 this section at any time before reaching earliest service retirement age. If the inactive member does
 13 not make an election to withdraw under this section, the member shall be paid the benefits or re-
 14 tirement allowances described in ORS 238.425.

15 (4) A member who is vested in the pension program established under ORS chapter 238A and
 16 who is eligible to withdraw from the pension program under ORS 238A.120 may withdraw a member
 17 account under this section only if the member also withdraws from the pension program. A member
 18 who has an individual account or accounts in the individual account program established under ORS
 19 chapter 238A **or a member account under sections 16 to 35 of this 2016 Act**, may withdraw a
 20 member account under this section only if the member also withdraws all individual **and member**
 21 accounts pursuant to ORS 238A.375 **and section 29 of this 2016 Act**. A member who has an account
 22 established under ORS 238.440 may withdraw a member account under this section only if the
 23 member also withdraws the account established under ORS 238.440.

24 (5) Withdrawal of [*a member*] **an** account under this section cancels all membership rights in the
 25 system, including the right to claim credit for any employment before withdrawal.

26 **SECTION 48.** ORS 238.445 is amended to read:

27 238.445. (1) Except as provided in this section, the right of a person to a pension, an annuity
 28 or a retirement allowance, to the return of contribution, the pension, annuity or retirement allow-
 29 ance itself, any optional benefit or death benefit, or any other right accrued or accruing to any
 30 person under the provisions of this chapter or ORS chapter 238A **or sections 16 to 35 of this 2016**
 31 **Act**, and the money in the various funds created by ORS 238.660 and 238.670, shall be exempt from
 32 garnishment and all state, county and municipal taxes heretofore or hereafter imposed, except as
 33 provided under ORS chapter 118, shall not be subject to execution, garnishment, attachment or any
 34 other process or to the operation of any bankruptcy or insolvency law heretofore or hereafter ex-
 35 isting or enacted, and shall be unassignable.

36 (2) Subsection (1) of this section does not apply to state personal income taxation of amounts
 37 paid under this chapter and ORS chapter 238A **or sections 16 to 35 of this 2016 Act**.

38 (3) Unless otherwise ordered by a court under ORS 25.387, the exemption from execution or
 39 other process granted under this section applies to 50 percent of amounts paid under this chapter
 40 and ORS chapter 238A **or sections 16 to 35 of this 2016 Act** if the execution or other process is
 41 issued for a support obligation or an order or notice entered or issued under ORS chapter 25, 107,
 42 108, 109, 110, 416, 419B or 419C.

43 **SECTION 49.** ORS 238.455 is amended to read:

44 238.455. (1)(a) Whenever a member of the system is retired for service and is entitled to receive
 45 a retirement allowance or benefit that is payable monthly, and the Public Employees Retirement

1 Board is unable to calculate the amount of the monthly payment in time to allow mailing of the
2 monthly payment to the member within 62 days of the date the first monthly payment is due, the
3 board shall calculate an estimated amount for the monthly payment based on the information then
4 available to the board and shall mail that payment to the member within 62 days of the date the first
5 monthly payment is due.

6 (b) Whenever a member of the system is retired for disability and is entitled to receive a re-
7 tirement allowance or benefit that is payable monthly, and the board is unable to calculate the
8 amount of the monthly payment in time to allow mailing of the monthly payment to the member
9 within 10 days of either the date the board approves the member's application or the date that the
10 first monthly payment is due, whichever is later, the board shall calculate an estimated amount for
11 the monthly payment based on the information then available to the board and shall mail that pay-
12 ment to the member within 10 days of the date the board approves the member's disability benefit,
13 the date the board receives the member's election of one of the optional forms of disability retire-
14 ment allowance or the date the first monthly payment is due, whichever is later.

15 (2) The board shall continue to mail estimated payments under subsection (1) of this section
16 until such time as the correct amount of the monthly payment is determined.

17 (3) The board shall notify the member receiving an estimated payment under subsection (1) of
18 this section that the payment is an estimated payment only. The board shall further notify the
19 member of the provisions of subsection (4) of this section.

20 (4) If the board determines that any estimated payment made to the member under subsection
21 (1) of this section resulted in payment to the member of an amount other than the correct amount
22 due the member as a retirement allowance or benefit, the board shall immediately so notify the
23 member. Thereafter, the board may increase or decrease the monthly payment to the member until
24 such time as the total difference between the amount or amounts the member received and the
25 amount or amounts the member should have received is accounted for. Thereafter the member shall
26 receive the monthly payment as finally calculated by the board.

27 (5) If the estimated payment made to the member under subsection (1) of this section results in
28 an underpayment to the member of \$10 or more a month, the board shall pay interest on the balance
29 of such underpayment at a rate established by rule of the board until such time as the underpayment
30 is paid to the member pursuant to subsection (4) of this section.

31 (6) No member shall have any right to any allowance or other benefit other than that provided
32 for in this chapter [and] **or** ORS chapter 238A **or sections 16 to 35 of this 2016 Act** based on the
33 board's estimate under this section or based on any other estimate made by the board for any other
34 purpose under this chapter [and] **or** ORS chapter 238A **or sections 16 to 35 of this 2016 Act**.

35 **SECTION 50.** ORS 238.465 is amended to read:

36 238.465. (1) Notwithstanding ORS 238.445 or any other provision of law, payments under this
37 chapter or ORS chapter 238A **or sections 16 to 35 of this 2016 Act** of any pension, annuity, re-
38 tirement allowance, disability benefit, death benefit, refund benefit or other benefit that would oth-
39 erwise be made to a person entitled thereto under this chapter or ORS chapter 238A **or sections**
40 **16 to 35 of this 2016 Act** shall be paid, in whole or in part, by the Public Employees Retirement
41 Board to an alternate payee if and to the extent expressly provided for in the terms of any judgment
42 of annulment or dissolution of marriage or of separation, or the terms of any court order or court-
43 approved property settlement agreement incident to any judgment of annulment or dissolution of
44 marriage or of separation. Except as provided in subsection (5) of this section, the total actuarial
45 value of benefits payable to a member and to an alternate payee under this section may not be

1 greater than the value of the benefits the member would otherwise be eligible to receive if the
2 annulment or dissolution of marriage or separation had not occurred. Any payment under this sub-
3 section to an alternate payee bars recovery by any other person.

4 (2) A judgment, order or settlement providing for payment to an alternate payee under sub-
5 section (1) of this section may also provide:

6 (a) That payments to the alternate payee may commence, at the election of the alternate payee,
7 at any time after the earlier of:

8 (A) The earliest date the member would be eligible to receive retirement benefits if the member
9 separates from service; or

10 (B) The date the member actually separates from service due to death, disability, retirement or
11 termination of employment.

12 (b) That the alternate payee may elect to receive payment in any form of pension, annuity, re-
13 tirement allowance, disability benefit, death benefit, refund benefit or other benefit, except a benefit
14 in the form of a joint and survivor annuity, that would be available to the member under this
15 chapter or ORS chapter 238A **or sections 16 to 35 of this 2016 Act**, or that would be available to
16 the member if the member retired or separated from service at the time of election by the alternate
17 payee, without regard to the form of benefit elected by the member.

18 (c) That the alternate payee's life is the measuring life for the purpose of measuring payments
19 to the alternate payee under the form of benefit selected by the alternate payee and for the purpose
20 of determining necessary employer reserves.

21 (d) Except as provided in ORS 238.305 (10) and 238.325 (7), that any person designated by the
22 member as a beneficiary under ORS 238.300, 238.305, 238.325, 238A.190 or 238A.400 **or section 30**
23 **of this 2016 Act** be changed, even though the member has retired and has begun receiving a re-
24 tirement allowance or pension. If a change of beneficiary is ordered under this paragraph, the board
25 shall adjust the anticipated benefits that would be payable to the member and the beneficiary to
26 ensure that the cost to the system of providing benefits to the member and the new beneficiary does
27 not exceed the cost that the system would have incurred to provide benefits to the member and the
28 original beneficiary. The judgment, order or settlement may not provide for any change to the option
29 selected by the retired member under ORS 238.300, 238.305, 238.320, 238.325, 238A.190 or 238A.400
30 as to the form of the retirement benefit.

31 (e) That death benefits under ORS 238A.230 to which the alternate payee has been entitled as
32 the spouse of a member shall be available to the alternate payee after the effective date of the
33 judgment of annulment or dissolution of marriage or of separation.

34 (3) The board shall adopt rules that provide for:

35 (a) The creation of a separate account in the name of the alternate payee reflecting the
36 judgment's, order's or agreement's distribution of the member's benefits under this chapter or ORS
37 chapter 238A **or sections 16 to 35 of this 2016 Act**;

38 (b) The establishing of criteria to determine whether domestic relations judgments, orders and
39 agreements comply with this section; and

40 (c) The definitions and procedures for the administration of this section.

41 (4) An alternate payee may designate a beneficiary for the purposes of death benefits payable
42 under ORS 238.390 and 238.395 **and section 30 of this 2016 Act**. Subject to ORS 238A.410 (2), an
43 alternate payee may designate a beneficiary for the purposes of death benefits payable under ORS
44 238A.410. If the alternate payee fails to designate a beneficiary for the purposes of death benefits
45 payable under ORS 238.390 and 238.395 **and section 30 of this 2016 Act**, the benefits shall be paid

1 as provided by ORS 238.390 (2) **and section 30 (2) of this 2016 Act**. If the alternate payee fails to
2 designate a beneficiary for the purposes of death benefits payable under ORS 238A.410, the benefits
3 shall be paid as provided by ORS 238A.410 (3). If a judgment, order or agreement awards an interest
4 to an alternate payee, and if the alternate payee predeceases the member before the alternate payee
5 has commenced receiving benefits, the alternate payee shall be considered a member of the system
6 who died before retiring for the purposes of the death benefits provided in ORS 238.390, 238.395,
7 238A.230 and 238A.410 **and section 30 of this 2016 Act**, but for purposes of the death benefits
8 provided in ORS 238.395, the alternate payee shall be considered a member of the system who died
9 before retiring only if the member would have been eligible for death benefits under ORS 238.395
10 had the member died at the same time as the alternate payee. Payment of the death benefits to the
11 beneficiaries, estate or other persons entitled to receive the benefits under ORS 238.390, 238.395,
12 238A.230 and 238A.410 **and section 30 of this 2016 Act**, shall constitute payment in full of the al-
13 ternate payee's interest under the judgment, order or agreement.

14 (5) Any increase in the retirement allowance provided to the member shall increase the amounts
15 paid to the alternate payee in the same proportion, except that:

16 (a) An alternate payee is not entitled to receive cost-of-living adjustments under ORS 238.360
17 or any other retirement allowance increase until benefits are first paid from the system on behalf
18 of the member; and

19 (b) Cost-of-living adjustments under ORS 238.360 or 238A.210 to the retirement allowance paid
20 to an alternate payee shall be calculated on the basis of the amount of the alternate payee's yearly
21 allowance or yearly pension or benefit, as those terms are defined in ORS 238.360 and 238A.210.

22 (6) An alternate payee under this section is not eligible to receive the benefits provided under
23 ORS 238.410, 238.415, 238.420 and 238.440 by reason of the provisions of this section.

24 (7) An alternate payee who elects to begin receiving payments under subsection (1) of this sec-
25 tion before the member's effective date of retirement is not eligible to receive any additional pay-
26 ment by reason of credit in the system acquired by the member after the alternate payee begins to
27 receive payments.

28 (8) Subsection (1) of this section applies only to payments made by the board after the date of
29 receipt by the board of written notice of the judgment, order or agreement and such additional in-
30 formation and documentation as the board may prescribe.

31 (9) Whenever the board is required to make payment to an alternate payee under the provisions
32 of this section, the board shall charge and collect out of the benefits payable to the member and the
33 alternate payee actual and reasonable administrative expenses and related costs incurred by the
34 board in obtaining data and making calculations that are necessary by reason of the provisions of
35 this section. The board may not charge more than \$300 for total administrative expenses and related
36 costs incurred in obtaining data or making calculations that are necessary by reason of the pro-
37 visions of this section. The board shall allocate expenses and costs charged under the provisions of
38 this subsection between the member and the alternate payee based on the fraction of the benefit
39 received by the member or alternate payee.

40 (10) Unless otherwise provided by the judgment, order or agreement, a member has no interest
41 in the benefit payable to an alternate payee under this section. Upon the death of an alternate
42 payee, the board shall make such payment to the beneficiary designated by the alternate payee as
43 may be required under the form of benefit elected by the alternate payee. If a death benefit is pay-
44 able under ORS 238.390 or 238.395 **or section 30 of this 2016 Act** by reason of the death of an al-
45 ternate payee, payment of the death benefit shall be made to the beneficiary designated by the

1 alternate payee under ORS 238.390 (1), or as otherwise provided by ORS 238.390 and 238.395 **and**
2 **section 30 of this 2016 Act.**

3 (11) As used in this section, “court” means any court of appropriate jurisdiction of this or any
4 other state or of the District of Columbia.

5 **SECTION 51.** ORS 238.630 is amended to read:

6 238.630. (1) The governing authority of the system shall be a board known as the Public Em-
7 ployees Retirement Board and consisting of five members appointed by the Governor subject to
8 confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Except as otherwise
9 provided in ORS 238.640, the term of each member shall be three years. The Governor shall desig-
10 nate one member to serve as chairperson, who shall serve as chairperson at the pleasure of the
11 Governor.

12 (2) The board shall have:

13 (a) The powers and privileges of a corporation, including the right to sue and be sued in its own
14 name as such board; and

15 (b) The power and duty, subject to the limitations of this chapter and ORS chapter 238A **and**
16 **sections 16 to 35 of this 2016 Act**, of managing the system.

17 (3) The board:

18 (a) Shall arrange for actuarial service for the system;

19 (b) Shall employ a director;

20 (c) Shall create such other positions as it deems necessary to sound and economical adminis-
21 tration of the system, which positions the director shall fill by appointment;

22 (d) Shall, with the approval of the Director of the Oregon Department of Administrative Ser-
23 vices, and as otherwise provided by law, fix the salaries of all persons employed for purposes of
24 administering the system;

25 (e) Shall publish and distribute to all employer and employee members of the system an annual
26 report including a summary of investments of moneys in the fund, investment earnings, significant
27 legislative or administrative changes in the system and other pertinent information on the operation
28 of the system for the preceding year;

29 (f) Shall determine the actuarial equivalency of optional forms of retirement allowances and
30 pensions and adopt for that purpose the necessary actuarial equivalency factor tables in the manner
31 provided by ORS 238.607, which shall constitute a part of the system; and

32 (g) Shall adopt rules and take all actions necessary to maintain qualification of the Public Em-
33 ployees Retirement System and the Public Employees Retirement Fund as a qualified governmental
34 retirement plan and trust under the Internal Revenue Code and under regulations adopted pursuant
35 to the Internal Revenue Code. Rules under this paragraph may impose limits on contributions to the
36 system, limits on benefits payable from the system and other limitations or procedures required or
37 imposed under federal law or regulation for the purpose of qualification of the Public Employees
38 Retirement System and Public Employees Retirement Fund under the Internal Revenue Code as a
39 governmental retirement plan and trust.

40 (4) The board established by this section shall succeed to all the duties and prerogatives of the
41 Public Employees Retirement Board created by chapter 401, Oregon Laws 1945, in relation to the
42 Public Employees Retirement Fund, and in addition shall perform all duties required of it by ORS
43 237.950 to 237.980, in regard to moneys payable to or from such fund.

44 (5) The board shall identify by rule those records that must be maintained by participating
45 public employers for the purposes of subsection (3)(g) of this section. A participating public employer

1 shall maintain records for all employees who are members of the system as required by board rules,
2 and shall provide that information to the board upon request.

3 **SECTION 52.** ORS 238.645 is amended to read:

4 238.645. The system shall be administered, subject to the limitations of this chapter, ORS chap-
5 ter 238A **and sections 16 to 35 of this 2016 Act** and the budget prescribed by the board, by the
6 director provided for by ORS 238.630 and by a staff which the board authorizes and which the di-
7 rector appoints. The director shall hold that position during the discretion of the board and the
8 members of the staff shall hold their respective positions during the discretion of the director. No
9 member of the staff may be removed from it, however, in a manner contrary to the laws of the state
10 regarding civil service. The director shall furnish such bond as is required by the board.

11 **SECTION 53.** ORS 238.650 is amended to read:

12 238.650. (1) Subject to the limitations of this chapter and ORS chapter 238A **and sections 16**
13 **to 35 of this 2016 Act**, the Public Employees Retirement Board shall, from time to time, establish
14 rules for transacting its business and administering the system in accordance with the requirements
15 of ORS chapter 183.

16 (2) All rules adopted by the board become part of the written plan document of the Public Em-
17 ployees Retirement System for the purpose of the status of the system and the Public Employees
18 Retirement Fund as a qualified governmental retirement plan and trust under the Internal Revenue
19 Code and under regulations adopted pursuant to the Internal Revenue Code.

20 **SECTION 54.** ORS 238.700 is amended to read:

21 238.700. All provisions of ORS 238.655, 238.705, 238.710 and 238.715 hereby are made applicable
22 for enforcement of the requirements of this chapter and ORS chapter 238A **and sections 16 to 35**
23 **of this 2016 Act**.

24 **SECTION 55.** ORS 238.705 is amended to read:

25 238.705. (1) All public employers that are members of the system shall promptly and regularly
26 remit to the Public Employees Retirement Board all contributions required of them by law and fur-
27 nish all reports required by the board.

28 (2) Any public employer delinquent in remitting contributions shall be charged interest on the
29 total amount of contributions due from it at the rate of one percent per month or fraction thereof
30 during which the public employer is delinquent. Interest so paid shall be deposited in the Public
31 Employees Retirement Fund and shall be used by the board in paying administrative expenses of the
32 system.

33 (3) If any state officer or agency fails to remit any contribution or other obligation required by
34 law, the Public Employees Retirement Board, within 30 days after the date the request therefor has
35 been made by it by registered mail or by certified mail with return receipt, may certify to the
36 Oregon Department of Administrative Services the fact of such failure and the amount of the de-
37 linquent contribution or obligation, together with its request that such amount be set over from
38 funds of the delinquent officer or agency to the credit of the Public Employees Retirement Fund. A
39 copy of such certification and request shall be furnished the delinquent officer or agency. The de-
40 partment shall, within 10 days after receipt of the request of the board, approve the payment of such
41 amount by the delinquent officer or agency from funds allocated to the officer or agency for the
42 current biennium and draw a warrant for payment of the amount of the contribution or obligation
43 due out of funds in the State Treasury allocated to the use of the delinquent officer or agency.

44 (4) If any public employer other than a state agency fails to remit any contribution or pay any
45 other obligation due under this chapter or ORS chapter 238A **or sections 16 to 35 of this 2016**

1 **Act**, the board may certify to the department the fact of such failure. Upon receipt of the certi-
 2 fication the department shall withhold payment to the public employer of any revenues or funds in
 3 the State Treasury in which the public employer is entitled by law to share and which have been
 4 apportioned to the public employer until the board certifies to the department that the failure has
 5 been remedied. The board shall send a copy of each certification it makes under this subsection to
 6 the public employer affected.

7 (5) Any public employer delinquent in making reports or supplying information concerning its
 8 employees in the manner required by the board shall be charged a penalty of the lesser of \$2,000
 9 or one percent of the total annual contributions, for each month or fraction thereof during which
 10 the employer is delinquent. In addition, the board may send an auditor to the office of the employer
 11 to examine its records and to obtain the necessary reports, the entire cost of such audit to be paid
 12 by the delinquent employer. Penalties and other charges so paid shall be used by the board in paying
 13 administrative expenses of the system.

14 **SECTION 56.** ORS 238.715 is amended to read:

15 238.715. (1) If the Public Employees Retirement Board determines that a member of the Public
 16 Employees Retirement System or any other person receiving a monthly payment from the Public
 17 Employees Retirement Fund has received any amount in excess of the amounts that the member or
 18 other person is entitled to under this chapter [*and*] **or** ORS chapter 238A **or sections 16 to 35 of**
 19 **this 2016 Act**, the board may recover the overpayment or other improperly made payment by:

20 (a) Reducing the monthly payment to the member or other person for as many months as may
 21 be determined by the board to be necessary to recover the overpayment or other improperly made
 22 payment; or

23 (b) Reducing the monthly payment to the member or other person by an amount actuarially de-
 24 termined to be adequate to recover the overpayment or other improperly made payment during the
 25 period during which the monthly payment will be made to the member or other person.

26 (2)(a) Any person who receives a payment from the Public Employees Retirement Fund and who
 27 is not entitled to receive that payment, including a member of the system who receives an over-
 28 payment, holds the improperly made payment in trust subject to the board's recovery of that pay-
 29 ment under this section or by a civil action or other proceeding.

30 (b) The board may recover an improperly made payment in the manner provided by subsection
 31 (1) of this section from any person who receives an improperly made payment from the fund and
 32 who subsequently becomes entitled to receive a monthly payment from the fund.

33 (c) The board may recover an improperly made payment by reducing any lump sum payment in
 34 the amount necessary to recover the improperly made payment if a person who receives an im-
 35 properly made payment from the fund subsequently becomes entitled to receive a lump sum payment
 36 from the fund.

37 (3) Unless the member or other person receiving a monthly payment from the fund authorizes
 38 a greater reduction, the board may not reduce the monthly payment made to a member or other
 39 person under the provisions of subsection (1) of this section by an amount that is equal to more than
 40 10 percent of the monthly payment.

41 (4) Before reducing a benefit to recover an overpayment or erroneous payment, or pursuing any
 42 other collection action under this section, the board shall give notice of the overpayment or erro-
 43 neous payment to the person who received the payment. The notice shall describe the manner in
 44 which the person who received the payment may appeal the board's determination that an over-
 45 payment or erroneous payment was made, the action the board may take if the person does not re-

1 spond to the notice and the authority of the board to assess interest, penalties or costs of collection.

2 (5) If the board determines that an overpayment or erroneous payment was not caused by the
3 system or by a participating public employer, the board may assess interest in an amount equal to
4 one percent per month on the balance of the improperly made payment until the payment is fully
5 recovered. The board may also assess to the member or other person all costs incurred by the sys-
6 tem in recovering the payment, including attorney fees. Interest and costs may be collected in the
7 manner prescribed in subsections (1) and (2) of this section. The board may waive the interest and
8 costs on an overpayment or other improperly made payment for good cause shown.

9 (6) Notwithstanding ORS 293.240, the board may waive the recovery of any payment or payments
10 made to a person who was not entitled to receive the payment or payments if the total amount of
11 the overpayment or other improperly made payments is less than \$50.

12 (7) A payment made to a person from the fund may not be recovered by the board unless within
13 six years after the date that the payment was made the board has commenced proceedings to re-
14 cover the payment. For the purposes of subsection (1) of this section, the board shall be considered
15 to have commenced proceedings to recover the payment upon mailing of notice to the person re-
16 ceiving a monthly payment that the board has determined that an overpayment or other improperly
17 made payment has been made.

18 (8) The remedies authorized under this section are supplemental to any other remedies that may
19 be available to the board for recovery of amounts incorrectly paid from the fund to members of the
20 system or other persons.

21 (9) The board shall adopt rules establishing the procedures to be followed by the board in re-
22 covering overpayments and erroneous payments under this section.

23 **SECTION 57.** ORS 243.800 is amended to read:

24 243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to
25 243.945 **or sections 16 to 35 of this 2016 Act**, the governing board of a public university listed in
26 ORS 352.002 shall establish and administer an Optional Retirement Plan for administrative and ac-
27 ademic employees of the public university. The Optional Retirement Plan must be a qualified plan
28 under the Internal Revenue Code, capable of accepting funds transferred under subsection (7) of this
29 section without the transfer being treated as a taxable event under the Internal Revenue Code, and
30 willing to accept those funds. Retirement and death benefits shall be provided under the plan by the
31 purchase of annuity contracts, fixed or variable or a combination thereof, or by contracts for in-
32 vestments in mutual funds.

33 (2) An administrative or academic employee may elect to participate in the Optional Retirement
34 Plan upon completion of:

35 (a) Six hundred hours of employment, or the equivalent as determined by the governing board;
36 and

37 (b) Six months of employment that is not interrupted by more than 30 consecutive working days.

38 (3) An administrative or academic employee may make an irrevocable election to participate in
39 the Optional Retirement Plan within six months after being employed. An election under this sub-
40 section is effective on the first day of the month following the completion of the requirements of
41 subsection (2) of this section.

42 (4) An administrative or academic employee who does not elect to participate in the Optional
43 Retirement Plan:

44 (a) Remains or becomes a member of the Public Employees Retirement System in accordance
45 with ORS [*chapters*] **chapter 238 [and] or 238A or sections 16 to 35 of this 2016 Act**; or

1 (b) Continues to be assisted by the governing board under ORS 243.920 if the employee is being
2 so assisted.

3 (5) Except as provided in subsection (6) of this section, employees who elect to participate in the
4 Optional Retirement Plan are ineligible for active membership in the Public Employees Retirement
5 System or for any assistance by the governing board under ORS 243.920 as long as those employees
6 are employed in the public university and the plan is in effect.

7 (6)(a) An administrative or academic employee who elects to participate in the Optional Retirement
8 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who
9 is not vested shall be considered by the Public Employees Retirement Board to be a terminated
10 member under the provisions of ORS 238.095 as of the effective date of the election, and the amount
11 credited to the member account of the member shall be transferred directly to the Optional Retirement
12 Plan by the Public Employees Retirement Board in the manner provided by subsection (7) of
13 this section.

14 (b) An administrative or academic employee who elects to participate in the Optional Retirement
15 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is
16 vested shall be considered to be an inactive member by the Public Employees Retirement Board and
17 shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes
18 a written request to the Public Employees Retirement Board for a transfer of the amounts credited
19 to the member account of the member to the Optional Retirement Plan. A request for a transfer
20 must be made at the time the member elects to participate in the Optional Retirement Plan. Upon
21 receiving the request, the Public Employees Retirement Board shall transfer all amounts credited
22 to the member account of the member directly to the Optional Retirement Plan, and shall terminate
23 all rights, privileges and options of the employee under ORS chapter 238.

24 (c) An administrative or academic employee who elects to participate in the Optional Retirement
25 Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement
26 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be
27 considered to be a terminated member of the pension program by the Public Employees Retirement
28 Board as of the effective date of the election.

29 (d) An administrative or academic employee who elects to participate in the Optional Retirement
30 Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement
31 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be consid-
32 ered an inactive member of the pension program by the Public Employees Retirement Board as of
33 the effective date of the election. An employee who is subject to the provisions of this paragraph
34 retains all the rights, privileges and options of an inactive member of the pension program. If the
35 actuarial equivalent of the employee's benefit under the pension program at the time that the
36 election becomes effective is \$5,000 or less, the employee may make a written request to the Public
37 Employees Retirement Board for a transfer of the employee's interest under the pension program to
38 the Optional Retirement Plan. The request must be made at the time the member elects to partic-
39 ipate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement
40 Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit
41 under the pension program directly to the Optional Retirement Plan, and shall terminate the mem-
42 bership of the employee in the pension program.

43 (e) An administrative or academic employee who elects to participate in the Optional Retirement
44 Plan, and who is a vested member of the individual account program of the Oregon Public Service
45 Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall

1 be considered an inactive member of the individual account program by the Public Employees Re-
 2 tirement Board as of the effective date of the election. An employee who is subject to the provisions
 3 of this paragraph retains all the rights, privileges and options of an inactive member of the indi-
 4 vidual account program. An administrative or academic employee who elects to participate in the
 5 Optional Retirement Plan, and who is a member of the individual account program of the Oregon
 6 Public Service Retirement Plan, may make a written request to the Public Employees Retirement
 7 Board that all amounts in the member's employee account, rollover account and employer account,
 8 to the extent the member is vested in those accounts under ORS 238A.320, be transferred to the
 9 Optional Retirement Plan. The request must be made at the time the member elects to participate
 10 in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement
 11 Board shall transfer the amounts directly to the Optional Retirement Plan, and shall terminate the
 12 membership of the employee in the individual account program upon making the transfer.

13 **(f) An administrative or academic employee who elects to participate in the Optional**
 14 **Retirement Plan, and who is a vested member of the Fair Retirement Plan on the date that**
 15 **the election becomes effective, shall be considered an inactive member of the Fair Retire-**
 16 **ment Plan as of the effective date of the election. An employee who is subject to the pro-**
 17 **visions of this paragraph retains all the rights, privileges and options of an inactive member**
 18 **of the Fair Retirement Plan. An administrative or academic employee who elects to partic-**
 19 **ipate in the Optional Retirement Plan, and who is a member of the Fair Retirement Plan,**
 20 **may make a written request to the Public Employees Retirement Board that all amounts in**
 21 **the member's account, to the extent the member is vested in those accounts under section**
 22 **26 of this 2016 Act, be transferred to the Optional Retirement Plan. The request must be**
 23 **made at the time the member elects to participate in the Optional Retirement Plan. Upon**
 24 **receiving the request, the Public Employees Retirement Board shall transfer the amounts**
 25 **directly to the Optional Retirement Plan, and shall terminate the membership of the em-**
 26 **ployee in the Fair Retirement Plan upon making the transfer.**

27 [(f)] **(g)** Notwithstanding paragraphs (b), (d) [and], (e) **and (f)** of this subsection, the Public Em-
 28 ployees Retirement Board may not treat any employee as an inactive member under the provisions
 29 of this subsection for the purpose of receiving any benefit under ORS chapter 238 or 238A **or**
 30 **sections 16 to 35 of this 2016 Act** that requires that the employee be separated from all service
 31 with participating public employers and with employers who are treated as part of a participating
 32 public employer's controlled group under the federal laws and rules governing the status of the
 33 Public Employees Retirement System and the Public Employees Retirement Fund as a qualified
 34 governmental retirement plan and trust.

35 (7) Any amounts transferred from the Public Employees Retirement Fund under subsection (6)
 36 of this section shall be transferred directly to the Optional Retirement Plan by the Public Employees
 37 Retirement Board and may not be made available to the employee.

38 (8) An employee participating in the Optional Retirement Plan who was hired before July 1,
 39 2014, shall contribute monthly an amount equal to the percentage of the employee's salary that the
 40 employee would otherwise have contributed as an employee contribution to the Public Employees
 41 Retirement System if the employee had not elected to participate in the Optional Retirement Plan.

42 (9) For an employee participating in the Optional Retirement Plan who was hired before July
 43 1, 2014, the governing board shall contribute monthly to the Optional Retirement Plan the percent-
 44 age of salary of the employee equal to the percentage of salary that would otherwise have been
 45 contributed as an employer contribution on behalf of the employee to the Public Employees Retire-

1 ment System, before any offset under ORS 238.229 (2), if the employee had not elected to participate
2 in the Optional Retirement Plan.

3 (10) For an employee participating in the Optional Retirement Plan who was hired on or after
4 July 1, 2014, the governing board shall contribute monthly to the Optional Retirement Plan:

5 (a) Eight percent of the employee's salary; and

6 (b) A percentage of the employee's salary equal to the percentage of salary contributed by the
7 employee to the public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820, up to
8 four percent of the employee's salary in each pay period.

9 (11) Both employee and employer contributions to an Optional Retirement Plan shall be remitted
10 directly to the companies that have issued annuity contracts to the participating employees or di-
11 rectly to the mutual funds.

12 (12) Benefits under the Optional Retirement Plan are payable to employees who elect to partic-
13 ipate in the plan and their beneficiaries by the selected annuity provider or mutual fund in accord-
14 ance with the terms of the annuity contracts or the terms of the contract with the mutual fund.
15 Employees electing to participate in the Optional Retirement Plan agree that benefits payable under
16 the plan are not obligations of the State of Oregon or of the Public Employees Retirement System.

17 **SECTION 58.** ORS 243.830 is amended to read:

18 243.830. An agreement executed pursuant to ORS 243.820 by an employee who is subject to ORS
19 chapter 238 or 238A **or sections 16 to 35 of this 2016 Act**, or a similar retirement program for
20 public employees, in no way affects the contributions to be made or the benefits to be provided for
21 such employee under ORS chapter 238 or 238A **or sections 16 to 35 of this 2016 Act** or the other
22 similar program. Reduction of salary or forgoing a salary increase by a stated amount under ORS
23 243.820 shall not be deemed a reduction in salary for the purpose of such contributions and benefits.

24 **SECTION 59.** ORS 268.240 is amended to read:

25 268.240. (1) A district that is not participating in the Public Employees Retirement System may,
26 by application to the board, include any class of employees of the district in the system [*established*
27 *by ORS chapters 238 and 238A*] without entering into a contract of integration with the board under
28 ORS 238.680.

29 (2) The board shall consider an application received under this section to be an application to
30 become a participating employer [*under ORS chapters 238 and 238A*] **in the Public Employees**
31 **Retirement System** but only to the extent of providing membership for the class of employees de-
32 scribed in the application.

33 (3) The board, upon such terms as are set forth in a contract between the board and the em-
34 ployer, shall allow every employee in the specified class to become members of the Public Employees
35 Retirement System [*in accordance with ORS chapters 238 and 238A*].

36 (4) When a district enters into a contract with the board under subsection (3) of this section,
37 the district shall agree to eventually extend [*coverage under ORS chapters 238 and 238A*] **mem-**
38 **bership in the Public Employees Retirement System** to all eligible district employees through
39 successive contracts with the board.

40 (5) All employees who have completed the period of service with the public employer that is
41 required under ORS 238.015, 238A.100 or 238A.300 **or section 21 of this 2016 Act** shall become
42 members of the **Public Employees Retirement System** on a date specified by the board. All other
43 employees in the described class shall become members upon completion of the required period of
44 service.

45 (6) As used in this section, "board" means the Public Employees Retirement Board established

1 under ORS 238.630.

2 **SECTION 60.** ORS 338.135 is amended to read:

3 338.135. (1) Employee assignment to a public charter school shall be voluntary.

4 (2)(a) A public charter school or the sponsor of the public charter school is considered the em-
 5 ployer of any employees of the public charter school. If a school district board is not the sponsor
 6 of the public charter school, the school district board may not be the employer of the employees of
 7 the public charter school and the school district board may not collectively bargain with the em-
 8 ployees of the public charter school. The public charter school governing body shall control the
 9 selection of employees at the public charter school.

10 (b) If a virtual public charter school or the sponsor of a virtual public charter school contracts
 11 with a for-profit entity to provide educational services through the virtual public charter school, the
 12 for-profit entity may not be the employer of any employees of the virtual public charter school un-
 13 less:

14 (A) The employee is an administrator who does not have any teaching responsibilities; and

15 (B) Both the executive officer of the sponsor and the public charter school governing body ap-
 16 prove employment by the for-profit entity. The executive officer or governing body may choose to
 17 grant approval under this subparagraph:

18 (i) For all employees of the for-profit entity who meet the description in subparagraph (A) of this
 19 paragraph;

20 (ii) Based on the job categories of the employees who meet the description in subparagraph (A)
 21 of this paragraph; or

22 (iii) On a case-by-case basis for each employee who meets the description in subparagraph (A)
 23 of this paragraph.

24 (3) The school district board of the school district within which the public charter school is lo-
 25 cated shall grant a leave of absence to any employee who chooses to work in the public charter
 26 school. The length and terms of the leave of absence shall be set by negotiated agreement or by
 27 board policy. However, the length of the leave of absence may not be less than two years unless:

28 (a) The charter of the public charter school is terminated or the public charter school is dis-
 29 solved or closed during the leave of absence; or

30 (b) The employee and the school district board have mutually agreed to a different length of
 31 time.

32 (4) An employee of a public charter school operating within a school district who is granted a
 33 leave of absence from the school district and returns to employment with the school district shall
 34 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.
 35 Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of
 36 a public charter school not operating within the school district may make provisions for the return
 37 of the employee to employment with the school district.

38 (5) For purposes of ORS chapters 238 and 238A **and sections 16 to 35 of this 2016 Act**, a public
 39 charter school shall be considered a public employer and as such shall participate in the Public
 40 Employees Retirement System.

41 (6) For teacher licensing, employment experience in public charter schools shall be considered
 42 equivalent to experience in public schools.

43 (7)(a) Any person employed as an administrator in a public charter school shall be licensed or
 44 registered to administer by the Teacher Standards and Practices Commission.

45 (b) Any person employed as a teacher in a public charter school shall be licensed or registered

1 to teach by the commission.

2 (c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-time
3 equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed by
4 the commission pursuant to ORS 342.125.

5 (8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district
6 for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member
7 of a labor organization or organize with other employees to bargain collectively. Bargaining units
8 at the public charter school may be separate from other bargaining units of the sponsor or of the
9 school district in which the public charter school is located. Employees of a public charter school
10 may be part of the bargaining units of the sponsor or of the school district in which the public
11 charter school is located.

12 (9) An entity described in ORS 338.005 (5) may not waive the right to sponsor a public charter
13 school in a collective bargaining agreement.

14 **SECTION 61.** ORS 338.135, as amended by section 7, chapter 327, Oregon Laws 2013, and sec-
15 tion 5, chapter 647, Oregon Laws 2015, is amended to read:

16 338.135. (1) Employee assignment to a public charter school shall be voluntary.

17 (2)(a) A public charter school or the sponsor of the public charter school is considered the em-
18 ployer of any employees of the public charter school. If a school district board is not the sponsor
19 of the public charter school, the school district board may not be the employer of the employees of
20 the public charter school and the school district board may not collectively bargain with the em-
21 ployees of the public charter school. The public charter school governing body shall control the
22 selection of employees at the public charter school.

23 (b) If a virtual public charter school or the sponsor of a virtual public charter school contracts
24 with a for-profit entity to provide educational services through the virtual public charter school, the
25 for-profit entity may not be the employer of any employees of the virtual public charter school.

26 (3) The school district board of the school district within which the public charter school is lo-
27 cated shall grant a leave of absence to any employee who chooses to work in the public charter
28 school. The length and terms of the leave of absence shall be set by negotiated agreement or by
29 board policy. However, the length of the leave of absence may not be less than two years unless:

30 (a) The charter of the public charter school is terminated or the public charter school is dis-
31 solved or closed during the leave of absence; or

32 (b) The employee and the school district board have mutually agreed to a different length of
33 time.

34 (4) An employee of a public charter school operating within a school district who is granted a
35 leave of absence from the school district and returns to employment with the school district shall
36 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.
37 Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of
38 a public charter school not operating within the school district may make provisions for the return
39 of the employee to employment with the school district.

40 (5) For purposes of ORS chapters 238 and 238A **and sections 16 to 35 of this 2016 Act**, a public
41 charter school shall be considered a public employer and as such shall participate in the Public
42 Employees Retirement System.

43 (6) For teacher licensing, employment experience in public charter schools shall be considered
44 equivalent to experience in public schools.

45 (7)(a) Any person employed as an administrator in a public charter school shall be licensed or

1 registered to administer by the Teacher Standards and Practices Commission.

2 (b) Any person employed as a teacher in a public charter school shall be licensed or registered
3 to teach by the commission.

4 (c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-time
5 equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed by
6 the commission pursuant to ORS 342.125.

7 (8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district
8 for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member
9 of a labor organization or organize with other employees to bargain collectively. Bargaining units
10 at the public charter school may be separate from other bargaining units of the sponsor or of the
11 school district in which the public charter school is located. Employees of a public charter school
12 may be part of the bargaining units of the sponsor or of the school district in which the public
13 charter school is located.

14 (9) An entity described in ORS 338.005 (5) may not waive the right to sponsor a public charter
15 school in a collective bargaining agreement.

16 **SECTION 62.** ORS 341.290 is amended to read:

17 341.290. The board of education of a community college district shall be responsible for the
18 general supervision and control of any and all community colleges operated by the district. Con-
19 sistent with any applicable rules of the Higher Education Coordinating Commission, the board of
20 education of a community college district may:

21 (1) Subject to ORS chapters 238 and 238A **and sections 16 to 35 of this 2016 Act**, employ ad-
22 ministrative officers, professional personnel and other employees, define their duties, terms and
23 conditions of employment and prescribe compensation therefor, pursuant to ORS 243.650 to 243.782.

24 (2) Enact rules for the government of the community college, including professional personnel
25 and other employees and students of the community college.

26 (3) Prescribe the educational program.

27 (4) Control use of and access to the grounds, buildings, books, equipment and other property of
28 the district.

29 (5) Acquire, receive, hold, control, convey, sell, manage, operate, lease, lease-purchase, lend, in-
30 vest, improve and develop any and all property of whatever nature given to or appropriated for the
31 use, support or benefit of any activity under the control of the board, according to the terms and
32 conditions of the gift or appropriation.

33 (6) Purchase real property upon a contractual basis when the period of time allowed for payment
34 under the contract does not exceed 30 years.

35 (7) Fix standards of admission to the community college, prescribe and collect tuition for ad-
36 mission to the community college, including fixing different tuition rates for students who reside in
37 the district, students who do not reside in the district but are residents of the state and students
38 who do not reside in the state.

39 (8) Prescribe and collect fees and expend funds so raised for special programs and services for
40 the students and for programs for the cultural and physical development of the students.

41 (9) Provide and disseminate to the public information relating to the program, operation and fi-
42 nances of the community college.

43 (10) Establish or contract for advisory and consultant services.

44 (11) Take, hold and dispose of mortgages on real and personal property acquired by way of gift
45 or arising out of transactions entered into in accordance with the powers, duties and authority of

1 the board and institute, maintain and participate in suits and actions and other judicial proceedings
2 in the name of the district for the foreclosure of the mortgages.

3 (12) Maintain programs, services and facilities, and, in connection therewith, cooperate and enter
4 into agreements with any person or public or private agency.

5 (13) Provide student services including health, guidance, counseling and placement services, and
6 contract therefor.

7 (14) Join appropriate associations and pay any required dues therefor from resources of the
8 district.

9 (15) Apply for federal funds and accept and enter into any contracts or agreements for the receipt
10 of the funds from the federal government or its agencies for educational purposes.

11 (16) Exercise any other power, duty or responsibility necessary to carry out the functions under
12 this section or required by law.

13 (17) Prescribe rules for the use and access to public records of the district that are consistent
14 with ORS 192.420, and education records of students under applicable state and federal law and
15 rules of the commission. Whenever a student has attained 18 years of age or is attending an institution
16 of post-secondary education, the permission or consent required of and the rights accorded
17 to a parent of the student regarding education records shall thereafter be required of and accorded
18 to only the student. However, faculty records relating to matters such as conduct, personal and
19 academic evaluations, disciplinary actions, if any, and other personal matters shall not be made
20 available to public inspection for any purpose except with the consent of the person who is the
21 subject of the record or upon order of a court of competent jurisdiction.

22 (18) Enter into contracts for the receipt of cash or property, or both, and establish charitable
23 gift annuities pursuant to ORS 731.038; and, commit, appropriate, authorize and budget for the payment
24 of or other disposition of general funds to pay, in whole or in part, sums due under an agreement
25 for a charitable gift annuity, and to provide the necessary funding for reserves or other trust
26 funds pursuant to ORS 731.038.

27 (19) Encourage gifts to the district by faithfully devoting the proceeds of the gifts to the district
28 purposes for which intended.

29 (20) Build, furnish, equip, repair, lease, purchase and raze facilities; and locate, buy and acquire
30 lands for all district purposes. Financing may be by any prudent method including but not limited
31 to loans, contract purchase or lease. Leases authorized by this section include lease-purchase
32 agreements under which the district may acquire ownership of the leased property at a nominal
33 price. The financing agreements may be for a term of up to 30 years except for lease arrangements
34 which may be for a term of up to 50 years.

35 (21) Participate in an educational consortium with public and private institutions that offer upper
36 division and graduate instruction. Community colleges engaged in consortiums may expend
37 money, provide facilities and assign staff to assist those institutions offering upper division and
38 graduate instruction.

39 (22) Enter into contracts of insurance or medical and hospital service contracts or may operate
40 a self-insurance program as provided in ORS 341.312.

41 **SECTION 63.** ORS 353.117 is amended to read:

42 353.117. (1) Pursuant to ORS 353.050, Oregon Health and Science University may create and
43 maintain an entity that is exempt from federal income tax under section 501(c)(3) of the Internal
44 Revenue Code, as amended, for the purpose of conducting clinical care and practice and advancing
45 other university missions by the faculty.

1 (2) Any entity created by the university under subsection (1) of this section shall be considered:

2 (a) A public employer for purposes of ORS 236.605 to 236.640 and ORS chapters 238 and 238A
3 **and sections 16 to 35 of this 2016 Act;**

4 (b) A unit of local government for purposes of ORS 190.003 to 190.130;

5 (c) A public body for purposes of ORS 30.260 to 30.300 and 307.112;

6 (d) A public agency for purposes of ORS 200.090; and

7 (e) A public corporation for purposes of ORS 307.090.

8 **SECTION 64.** ORS 377.836 is amended to read:

9 377.836. (1) Except as otherwise provided by law, and except as provided in subsection (2) of this
10 section, the provisions of ORS 279.835 to 279.855 and 283.085 to 283.092 and ORS chapters 240, 276,
11 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to the Travel Information Council. The
12 council is subject to all other statutes governing a state agency that do not conflict with ORS
13 377.700 to 377.844, including the tort liability provisions of ORS 30.260 to 30.300 and the provisions
14 of ORS chapter 183. Subject to the requirements of ORS chapters 238 and 238A **and sections 16 to**
15 **35 of this 2016 Act**, the council's employees are members of the Public Employees Retirement Sys-
16 tem.

17 (2) The following shall apply to the council:

18 (a) ORS 279A.250 to 279A.290;

19 (b) ORS 282.210 to 282.230; and

20 (c) ORS 293.235, 293.240, 293.245, 293.611, 293.625 and 293.630.

21 **SECTION 65.** ORS 396.330 is amended to read:

22 396.330. (1) State employees of the Oregon Military Department who are not otherwise members
23 of the Oregon National Guard may be required as a condition of employment to obtain membership
24 in the Oregon State Defense Force when in the judgment of the Adjutant General the membership
25 maintains or enhances the readiness and stability of the department to provide services if the need
26 for Oregon State Defense Force assistance should arise. The decision of the Adjutant General shall
27 be carried out by written regulation and shall not be subject to collective bargaining.

28 (2) Members of the Oregon National Guard or Oregon State Defense Force who are ordered to
29 state active duty under the provisions of ORS chapter 399 shall be considered as being in the mili-
30 tary service of the state and shall be considered temporary employees of the military department.

31 (3) State employees of the military department may be ordered to state active duty under ORS
32 chapter 399 without jeopardizing their status as regular employees. Employees so ordered must be
33 in an authorized leave status from their regular military department employment during the period
34 served on active duty.

35 (4) State employees of the military department shall be subject to ORS chapter 240 or 243 when
36 performing as regular employees.

37 (5) Members of the Oregon National Guard who are serving under Title 10 or Title 32 of the
38 United States Code are not eligible, by reason of that service, for the rights or benefits of public
39 employees granted or authorized by ORS chapter 236, 237, 238, 238A, 240 or 243 **or sections 16 to**
40 **35 of this 2016 Act**. Except as required by federal law or regulation, ORS chapters 652, 653, 654,
41 656, 657, 659, 659A, 661 and 663 do not apply to members of the Oregon National Guard who are
42 serving under Title 10 or Title 32 of the United States Code.

43 **SECTION 66.** ORS 576.306 is amended to read:

44 576.306. (1) A commodity commission may contract with an independent contractor for the per-
45 formance of any services. However, the commission may not contract with an independent con-

1 tractor to perform the discretionary functions of the commission. ORS 279.835 to 279.855 and ORS
2 chapters 240, 279A, 279B and 279C do not apply to the commission in obtaining such services, except
3 that a contract for such services may not take effect until approved by the State Department of
4 Agriculture as provided in subsection (7) of this section.

5 (2) The commission may rent space or acquire supplies and equipment from any contractor as
6 described in subsection (1) of this section. ORS chapters 276, 278, 279A, 279B, 279C and 283 and ORS
7 279.835 to 279.855, 283.085 to 283.092 and 291.038 do not apply to such rentals or acquisitions.

8 (3) Except as provided in this section, a contractor described in subsection (1) of this section
9 shall be considered an independent contractor and not an employee, eligible employee, public em-
10 ployee or employee of the state for purposes of Oregon law, including ORS chapters 236, 238, 238A,
11 240, 243, 291, 292, 316 and 652 **and sections 16 to 35 of this 2016 Act.**

12 (4) Nothing in this section precludes the state or a commission from being considered the em-
13 ployer of the contractor described in subsection (1) of this section for purposes of unemployment
14 compensation under ORS chapter 657 and ORS 670.600.

15 (5) A contractor described in subsection (1) of this section shall be considered an independent
16 contractor and not a worker for purposes of ORS chapter 656 and ORS 670.600.

17 (6) A contractor described in subsection (1) of this section may not be considered a public offi-
18 cial, public officer, state officer or executive official for purposes of Oregon law, including ORS
19 chapters 236, 244, 292, 295 and 297 and ORS 171.725 to 171.785.

20 (7) The State Department of Agriculture shall review the contract described in subsection (1)
21 of this section for the adequacy of the clauses pertaining to statement of work, starting and ending
22 dates, consideration, subcontracts, funds authorized in the budget, amendments, termination, com-
23 pliance with applicable law, assignment and waiver, access to records, indemnity, ownership of work
24 product, nondiscrimination, successors in interest, attorney fees, tax certification or merger or any
25 other clause the department deems necessary.

26 (8) The Oregon Department of Administrative Services, in consultation with the State Depart-
27 ment of Agriculture, shall adopt rules necessary for the screening and selection of independent
28 contractors under this section.

29 (9) Except as provided in subsection (8) of this section, the State Department of Agriculture may
30 promulgate any rules necessary for the administration and enforcement of this section.

31 **SECTION 67.** ORS 777.775 is amended to read:

32 777.775. (1) An export trading corporation is not a contracting agency for the purposes of ORS
33 279A.055, 279A.065, 279A.070, 279A.075, 279A.100, 279A.105, 279A.120, 279C.005, 279C.100 to
34 279C.125, 279C.300 to 279C.470 and 279C.570 and ORS chapter 279B, except ORS 279B.025, 279B.235,
35 279B.240, 279B.270, 279B.275 and 279B.280.

36 (2) An export trading corporation is not a public employer for the purposes of ORS chapters 238
37 and 238A **and sections 16 to 35 of this 2016 Act.**

38 **SECTION 68.** ORS 410.614 is amended to read:

39 410.614. (1) Notwithstanding ORS 243.650 (19) and (20), the Home Care Commission shall be
40 considered a public employer and home care workers shall be considered public employees governed
41 by ORS 243.650 to 243.782.

42 (2) Home care workers have the right to form, join and participate in the activities of labor
43 organizations of their own choosing for the purpose of representation and collective bargaining with
44 the commission on matters concerning employment relations. These rights shall be exercised in ac-
45 cordance with the rights granted to public employees with mediation and interest arbitration under

1 ORS 243.742 as the method of concluding the collective bargaining process.

2 (3) Home care workers are not public employees with respect to the Public Employees Retirement
3 System, the Oregon Public Service Retirement Plan, **sections 16 to 35 of this 2016 Act** or the
4 Public Employees' Benefit Board.

5 (4) Home care workers do not have the right to strike.

6 **SECTION 69.** ORS 238.447 is amended to read:

7 238.447. (1) Notwithstanding ORS 238.445, any retirement allowance, pension payment, lump sum
8 payment or other distribution payable under this chapter or ORS chapter 238A **or sections 16 to**
9 **35 of this 2016 Act** to a person convicted of a felony is subject to execution, garnishment, attach-
10 ment or other process to collect, and may be assigned to satisfy, the portion of a money award de-
11 scribed in subsection (2) of this section that is included in a judgment entered in the criminal action
12 as provided in ORS 18.048.

13 (2) Subsection (1) of this section applies only to the amount of a money award attributable to
14 restitution ordered under ORS 137.106 or a compensatory fine ordered under ORS 137.101.

15 **SECTION 70.** ORS 238.460 is amended to read:

16 238.460. (1) If receipt in full by a person of a retirement allowance or other benefit under this
17 chapter or ORS chapter 238A **or sections 16 to 35 of this 2016 Act** would prevent such person from
18 receiving in full any other governmental pension to which the person is entitled, such person may
19 waive for a calendar year sufficient monthly payments, or portions thereof, of retirement allowance
20 or other benefit under this chapter or ORS chapter 238A **or sections 16 to 35 of this 2016 Act** to
21 permit the person to receive in full the other governmental pension. The waiver shall be made in
22 writing and filed with the Public Employees Retirement Board not less than 15 days before the first
23 day of the month to which the waiver applies.

24 (2) If for any month the waiver does not apply to the full retirement allowance due under this
25 chapter, the waiver applies first to all or the necessary portion of prior service pension, then to all
26 or to the necessary portion of current service pension, and then to the necessary portion of annuity.

27 (3) The waiver may be revoked at any time, but no retirement allowance or other benefit waived
28 for the period of time in which the waiver is in effect shall be paid. The revocation shall be made
29 in writing and filed with the board. If a person dies during the period of time in which the waiver
30 is in effect, the waiver is considered revoked on the date of such death.

31 **SECTION 71.** ORS 341.551 is amended to read:

32 341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A **or sections 16 to 35**
33 **of this 2016 Act**, the Office of Community Colleges and Workforce Development may establish and
34 administer an optional retirement plan for administrative employees of community college districts
35 who are eligible for membership in the Public Employees Retirement System. Any community college
36 district may participate in the plan by giving written notice to the office.

37 (2) An administrative employee may make an election to participate in the optional retirement
38 plan if the community college district that employs the employee is participating in the plan. The
39 election must be made in the following manner:

40 (a) An administrative employee who is an active member of the Public Employees Retirement
41 System may make an election to participate in the plan within 180 days after the community college
42 district commences participation in the plan, effective on the first day of the month following the
43 election.

44 (b) An administrative employee who is hired after the community college district commences
45 participation in the plan may make an election to participate in the plan within the first six months

1 of employment, effective on the first day of the month following six full months of employment.

2 (3) An administrative employee who does not elect to participate in the optional retirement plan
3 remains or becomes a member of the Public Employees Retirement System in accordance with ORS
4 [chapters] **chapter 238 [and] or 238A or sections 16 to 35 of this 2016 Act.**

5 (4) An administrative employee may elect to participate in the optional retirement plan only if
6 at the time the election becomes effective the employee is not concurrently employed in a position
7 with any participating public employer other than the community college district in a position that
8 entitles the employee to membership in the Public Employees Retirement System. Except as pro-
9 vided in subsection (9) of this section, employees who elect to participate in the optional retirement
10 plan are ineligible for active membership in the Public Employees Retirement System for as long as
11 those employees are employed by a community college district that participates in the plan, whether
12 by reason of employment by the district or any other participating public employer.

13 (5)(a) An administrative employee who elects to participate in the optional retirement plan, who
14 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall
15 be considered by the Public Employees Retirement Board to be a terminated member under the
16 provisions of ORS 238.095 as of the effective date of the election, and the amount credited to the
17 member account of the member shall be transferred directly to the optional retirement plan by the
18 Public Employees Retirement Board in the manner provided by subsection (6) of this section.

19 (b) An administrative employee who elects to participate in the optional retirement plan, who
20 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall
21 be considered to be an inactive member by the Public Employees Retirement Board and shall retain
22 all the rights, privileges and options under ORS chapter 238 unless the employee makes a written
23 request to the Public Employees Retirement Board for a transfer of the amounts credited to the
24 member account of the member to the optional retirement plan. A request for a transfer must be
25 made at the time the member elects to participate in the optional retirement plan. Upon receiving
26 the request, the Public Employees Retirement Board shall transfer all amounts credited to the
27 member account of the member directly to the optional retirement plan and shall terminate all
28 rights, privileges and options of the employee under ORS chapter 238.

29 (c) An administrative employee who elects to participate in the optional retirement plan and
30 who is not a vested member of the pension program of the Oregon Public Service Retirement Plan
31 as described in ORS 238A.115 on the date that the election becomes effective shall be considered to
32 be a terminated member of the pension program by the Public Employees Retirement Board as of
33 the effective date of the election.

34 (d) An administrative employee who elects to participate in the optional retirement plan and
35 who is a vested member of the pension program of the Oregon Public Service Retirement Plan as
36 described in ORS 238A.115 on the date that the election becomes effective shall be considered an
37 inactive member of the pension program by the Public Employees Retirement Board as of the ef-
38 fective date of the election. An employee who is subject to the provisions of this paragraph retains
39 all the rights, privileges and options of an inactive member of the pension program. If the actuarial
40 equivalent of the employee's benefit under the pension program at the time that the election be-
41 comes effective is \$5,000 or less, the employee may make a written request to the Public Employees
42 Retirement Board for a transfer of the employee's interest under the pension program to the optional
43 retirement plan. The request must be made at the time the member elects to participate in the op-
44 tional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall
45 transfer the amount determined to be the actuarial equivalent of the employee's benefit under the

1 pension program directly to the optional retirement plan and shall terminate the membership of the
2 employee in the pension program.

3 (e) An administrative employee who elects to participate in the optional retirement plan and
4 who is a vested member of the individual account program of the Oregon Public Service Retirement
5 Plan as described in ORS 238A.320 on the date that the election becomes effective shall be consid-
6 ered an inactive member of the individual account program by the Public Employees Retirement
7 Board as of the effective date of the election. An employee who is subject to the provisions of this
8 paragraph retains all the rights, privileges and options of an inactive member of the individual ac-
9 count program. An administrative employee who elects to participate in the optional retirement plan
10 and who is a member of the individual account program of the Oregon Public Service Retirement
11 Plan may make a written request to the Public Employees Retirement Board that all amounts in the
12 member's employee account, rollover account and employer account, to the extent the member is
13 vested in those accounts under ORS 238A.320, be transferred to the optional retirement plan. The
14 request must be made at the time the member elects to participate in the optional retirement plan.
15 Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts di-
16 rectly to the optional retirement plan and shall terminate the membership of the employee in the
17 individual account program.

18 **(f) An administrative employee who elects to participate in the optional retirement plan**
19 **and who is a member of the Fair Retirement Plan under section 21 of this 2016 Act on the**
20 **date that the election becomes effective shall be considered an inactive member of the Fair**
21 **Retirement Plan by the Public Employees Retirement Board as of the effective date of the**
22 **election. An employee who is subject to the provisions of this paragraph retains all the**
23 **rights, privileges and options of an inactive member of the Fair Retirement Plan. An ad-**
24 **ministrative employee who elects to participate in the optional retirement plan and who is**
25 **a member of the Fair Retirement Plan under section 21 of this 2016 Act may make a written**
26 **request to the Public Employees Retirement Board that all amounts in the member's mem-**
27 **ber account be transferred to the optional retirement plan. The request must be made at the**
28 **time the member elects to participate in the optional retirement plan. Upon receiving the**
29 **request, the Public Employees Retirement Board shall transfer the amounts directly to the**
30 **optional retirement plan and shall terminate the membership of the employee in the Fair**
31 **Retirement Plan.**

32 (f) Notwithstanding paragraphs (b), (d) [and], (e) **and (f)** of this subsection, the Public Employees
33 Retirement Board shall not treat any employee as an inactive member under the provisions of this
34 subsection for the purpose of receiving any benefit under ORS chapter 238 or 238A **or sections 16**
35 **to 35 of this 2016 Act** that requires that the employee be separated from all service with partic-
36 ipating public employers and with employers who are treated as part of a participating public
37 employer's controlled group under the federal laws and rules governing the status of the Public
38 Employees Retirement System and the Public Employees Retirement Fund as a qualified govern-
39 mental retirement plan and trust.

40 (6) Any amounts transferred from the Public Employees Retirement Fund under subsection (5)
41 of this section shall be transferred directly to the optional retirement plan by the Public Employees
42 Retirement Board and shall not be made available to the employee.

43 (7) An employee participating in the optional retirement plan shall contribute monthly an
44 amount equal to the percentage of the employee's salary that the employee would otherwise have
45 contributed as an employee contribution to the Public Employees Retirement System if the employee

1 had not elected to participate in the optional retirement plan.

2 (8) A participating community college district shall contribute monthly to the optional retire-
 3 ment plan the percentage of salary for each employee participating in the plan that is equal to the
 4 percentage of salary that is required to be made as the employer contribution under ORS 238A.220,
 5 less any contributions made by reason of unfunded liabilities. The district may make contributions
 6 under this subsection only during periods of time in which the employee would be eligible for
 7 membership in the Public Employees Retirement System if the employee had not elected to partic-
 8 ipate in the optional retirement plan.

9 (9) An administrative employee who elects to participate in the optional retirement plan may
 10 make an election to withdraw from the plan. An employee may make an election under this sub-
 11 section only once. Upon withdrawing from the plan:

12 (a) All contributions made to the plan before the effective date of the withdrawal remain cred-
 13 ited to the employee;

14 (b) The employee becomes a member of the [*Public Employees Retirement System under ORS*
 15 *chapter 238A*] **Fair Retirement Plan under sections 16 to 35 of this 2016 Act** if the member meets
 16 all requirements for membership under [*ORS chapter 238A*] **sections 16 to 35 of this 2016 Act**; and

17 (c) The employee is barred from ever again electing to participate in the optional retirement
 18 plan.

19 (10) For the purposes of this section, “administrative employee” means a president, vice presi-
 20 dent or dean, or a person holding a position that is the equivalent of a president, vice president or
 21 dean.

22 **SECTION 72.** ORS 352.138 is amended to read:

23 352.138. (1) The following entities are not subject to any provision of law enacted after January
 24 1, 2013, that is unique to governmental entities unless the following entities are expressly named:

25 (a) A university with a governing board; and

26 (b) Any not-for-profit organization or other entity if the equity of the entity is owned or con-
 27 trolled exclusively by a university with a governing board and if the organization or entity is cre-
 28 ated by the university to advance any of the university’s statutory missions.

29 (2) Notwithstanding subsection (1) of this section and ORS 352.033, the provisions of ORS 30.260
 30 to 30.460, 33.710, 33.720, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 279.835, 279.840,
 31 279.850 and 297.040 and ORS chapters 35, 190, 192 and 244 apply to a university with a governing
 32 board under the same terms as they apply to public bodies other than the state.

33 (3) Except as otherwise provided by law, the provisions of ORS 35.550 to 35.575, 180.060, 180.210
 34 to 180.235, 184.305 to 184.345, 190.480, 190.490, 200.035, 243.696, 357.805 to 357.895 and 656.017 (2)
 35 and ORS chapters 182, 183, 240, 270, 273, 276, 278, 279A, 279B, 279C, 282, 283, 291, 292, 293, 294, 295
 36 and 297 do not apply to a university with a governing board.

37 (4)(a) Notwithstanding subsections (1) and (3) of this section and ORS 352.033, ORS 240.167,
 38 279C.600 to 279C.625, 279C.800, 279C.810, 279C.825, 279C.827, 279C.830, 279C.835, 279C.836, 279C.838,
 39 279C.840, 279C.845, 279C.850, 279C.855, 279C.860, 279C.865, 279C.870 and 292.043 apply to a univer-
 40 sity with a governing board under the same terms as they apply to public bodies other than the
 41 state.

42 (b) Notwithstanding subsections (1) and (3) of this section, ORS 279C.800 to 279C.870 apply to
 43 an agreement under the terms of which a private entity constructs, reconstructs, renovates or paints
 44 an improvement on real property owned by a university with a governing board or by a not-for-profit
 45 organization or other entity that a university with a governing board owns or controls exclusively.

1 (5) Notwithstanding subsection (2) of this section, ORS 190.430 and 192.105 do not apply to a
2 university with a governing board or any organization or other entity described in subsection (1)
3 of this section.

4 (6) Notwithstanding ORS 352.033, except as set forth in subsection (3) of this section, ORS
5 243.650 to 243.782 and 276.073 to 276.090 and ORS chapters 238 and 238A **and sections 16 to 35**
6 **of this 2016 Act** apply to a university with a governing board under the same terms as they apply
7 to the state.

8 (7) ORS 350.285, 350.290, 352.198, 352.226, 352.232, 352.293, 352.296, 352.303, 352.309 and 352.313
9 apply to a university with a governing board.

10 (8) Notwithstanding ORS 352.033, a university with a governing board and its agents and em-
11 ployees remain subject to all statutes and administrative rules of this state that create rights, ben-
12 efits or protections in favor of military veterans, service members and families of service members
13 to the same extent as an agency of this state would be subject to such statutes and administrative
14 rules.

15 (9) Notwithstanding ORS 352.033, ORS 350.540, 350.545 and 350.550 apply to a university with
16 a governing board. A university with a governing board may not issue a tax credit certificate under
17 ORS 350.540, 350.545 and 350.550 that will cause the public universities listed in ORS 352.002 to owe
18 the General Fund more than \$6 million at any one time under ORS 350.540, 350.545 and 350.550.

19 (10) If state bonds are issued for the benefit of a university with a governing board under Article
20 XI-Q of the Oregon Constitution:

21 (a) The Higher Education Coordinating Commission shall have the powers and duties of a
22 project agency, as defined in ORS 286A.816, to the extent necessary for the issuance of the state
23 bonds and the administration of the proceeds of the state bonds; and

24 (b) The university and the Higher Education Coordinating Commission shall enter into grant
25 contracts or loan agreements that comply with rules adopted by the Oregon Department of Admin-
26 istrative Services relating to:

27 (A) Disbursement of project funds by a project agency through grant contracts or loan agree-
28 ments;

29 (B) Submission of a request for project funds to the commission under ORS 350.095; and

30 (C) Any other matters determined by the Oregon Department of Administrative Services to be
31 necessary for the administration of the Article XI-Q bond program.

32 (11) Nothing in this section may be construed so that statutory provisions that are not set forth
33 in this section apply to a university with a governing board.

34 **SECTION 73.** ORS 352.129 is amended to read:

35 352.129. (1) Notwithstanding ORS 352.087 and 352.102 and section 169, chapter 768, Oregon Laws
36 2013, the amendments to ORS 243.107 and 351.094 [renumbered 352.237] by sections 88 and 113,
37 chapter 768, Oregon Laws 2013, and the operative date set forth in section 171, chapter 768, Oregon
38 Laws 2013, until July 1, 2019, each university with a governing board shall continue to participate
39 with other public universities listed in ORS 352.002 in all shared administrative services relating to:

40 (a) The following employee benefits:

41 (A) Group insurance or deferred compensation plans authorized by ORS 352.237;

42 (B) The Public Employees Retirement System or another plan authorized under ORS chapter 238
43 or 238A **or sections 16 to 35 of this 2016 Act**;

44 (C) The Optional Retirement Plan authorized by ORS 243.800; and

45 (D) A public university tax-deferred investment plan that obtains the advantages of 26 U.S.C.

1 403(b) and is authorized by ORS 243.820; and

2 (b) Collective bargaining with any statewide bargaining unit that includes employees of two or
3 more public universities listed in ORS 352.002.

4 (2) During the period a public university listed in ORS 352.002 is required to participate in
5 shared administrative services under subsection (1) of this section, the public university must pro-
6 vide the same scope and overall value of each employee benefit listed in subsection (1)(a) of this
7 section as is required by the statutes referenced in subsection (1)(a) of this section.

8 (3) The shared administrative services listed in subsection (1) of this section must be done under
9 the same terms, conditions, funding model and policy frameworks as those that exist on August 14,
10 2013, until July 1, 2015. On and after July 1, 2015, public universities listed in ORS 352.002 may
11 choose to participate in shared services under an alternative shared services model.

12 (4)(a) Two or more public universities listed in ORS 352.002 may participate in shared services
13 not described in subsection (1) of this section, including but not limited to shared services involving
14 legal services and information technology.

15 (b) If a public university listed in ORS 352.002, or a community college, negotiates a contract
16 with one or more third party financial firms, as defined in ORS 348.015, to provide disbursement and
17 management services of financial aid funds, or management of financial accounts, to enrolled stu-
18 dents, the public university or community college shall undertake reasonable efforts to establish
19 collaboration agreements with other public universities or community colleges to negotiate the ser-
20 vices.

21 (5)(a) A university with a governing board shall participate in shared services providing for
22 maintenance of federal tax benefits relating to state bonds issued for the benefit of the university
23 prior to April 30, 2015, unless the university opts out of shared services as described in paragraph
24 (b) of this subsection.

25 (b) A university with a governing board may opt out of the shared services described in para-
26 graph (a) of this subsection only if the Oregon Department of Administrative Services has adopted
27 rules under ORS 286A.863 relating to standards, terms and conditions for maintaining federal tax
28 benefits that apply to universities with governing boards that opt out of shared services described
29 in paragraph (a) of this subsection.

30 (c) As used in this subsection, “federal tax benefits” has the meaning given that term in ORS
31 286A.830.

32 **SECTION 74.** ORS 350.355 is amended to read:

33 350.355. (1) Subject to ORS 352.237 and any group health and welfare insurance benefit plan
34 developed under ORS 352.237, a part-time faculty member at a public institution of higher education
35 is eligible for the same health care benefits as full-time faculty members if the part-time faculty
36 member is eligible for membership in the Public Employees Retirement System or another plan au-
37 thorized under ORS chapter 238 or 238A **or sections 16 to 35 of this 2016 Act** by teaching either
38 at a single public institution of higher education or in aggregate at multiple public institutions of
39 higher education during the prior year.

40 (2) A part-time faculty member at a public institution of higher education shall pay all insurance
41 premiums for health care benefits unless otherwise provided for by the policy of the institution or
42 by collective bargaining at the institution.

43 **SECTION 75.** ORS 238.750 is repealed.

44
45 **EMPLOYER CONTRIBUTION RATES**

