

HB 4011-1
(LC 51)
1/28/16 (MNJ/ps)

Requested by HOUSE COMMITTEE ON RURAL COMMUNITIES, LAND USE AND WATER

**PROPOSED AMENDMENTS TO
HOUSE BILL 4011**

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

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

4 “238.005. For purposes of this chapter:

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

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

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

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

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

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

19 “(b) An employee who was in the armed services on January 1, 1945, and
20 returned to the service of the employer within one year of the date of being
21 otherwise than dishonorably discharged and remained in that employment

1 until having established membership in the Public Employees Retirement
2 System.

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

10 “(7) ‘Earliest service retirement age’ means the age attained by a member
11 when the member could first make application for retirement under the pro-
12 visions of ORS 238.280.

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

15 “(a) Persons engaged as independent contractors.

16 “(b) Seasonal, emergency or casual workers whose periods of employment
17 with any public employer or public employers do not total 600 hours in any
18 calendar year.

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

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

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

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

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

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

18 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does in-
19 clude:

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

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

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

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

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

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

4 “(15) ‘Member’ means a person who has established membership in the
5 system and whose membership has not been terminated as described in ORS
6 238.095. ‘Member’ includes active, inactive and retired members.

7 “(16) ‘Member account’ means the regular account and the variable ac-
8 count.

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

10 “(a) For a person who establishes membership in the system before Jan-
11 uary 1, 1996, as described in ORS 238.430, 55 years of age if the employee
12 retires at that age as a police officer or firefighter or 58 years of age if the
13 employee retires at that age as other than a police officer or firefighter.

14 “(b) For a person who establishes membership in the system on or after
15 January 1, 1996, as described in ORS 238.430, 55 years of age if the employee
16 retires at that age as a police officer or firefighter or 60 years of age if the
17 employee retires at that age as other than a police officer or firefighter.

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

20 “(19) ‘Police officer’ includes:

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

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

30 “(c) Employees of the Oregon Liquor Control Commission who are clas-

1 sified as regulatory specialists by the administrator of the commission.

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

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

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

9 “(g) Parole and probation officers employed by the Department of Cor-
10 rections, parole and probation officers who are transferred to county em-
11 ployment under ORS 423.549 and adult parole and probation officers, as
12 defined in ORS 181A.355, who are classified as police officers for the pur-
13 poses of this chapter by the county governing body. If a county classifies
14 adult parole and probation officers as police officers for the purposes of this
15 chapter, and the employees so classified are represented by a labor organ-
16 ization, any proposal by the county to change that classification or to cease
17 to classify adult parole and probation officers as police officers for the pur-
18 poses of this chapter is a mandatory subject of bargaining.

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

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

22 “(j) Employees of the State Department of Agriculture who are classified
23 as livestock police officers by the Director of Agriculture.

24 “(k) Employees of the Department of Public Safety Standards and Train-
25 ing who are classified by the department as other than secretarial or clerical
26 personnel.

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

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

30 “(n) Employees of the Oregon State Lottery Commission who are classi-

1 fied by the Director of the Oregon State Lottery as enforcement agents pur-
2 suant to ORS 461.110.

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

4 “(p) An employee who for seven consecutive years has been classified as
5 a police officer as defined by this section, and who is employed or transferred
6 by the Department of Corrections to fill a position designated by the Direc-
7 tor of the Department of Corrections as being eligible for police officer sta-
8 tus.

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

14 “(r) Employees of a school district who are appointed and duly sworn
15 members of a law enforcement agency of the district as provided in ORS
16 332.531 or otherwise employed full-time as police officers commissioned by
17 the district.

18 “(s) Employees at youth correction facilities and juvenile detention facil-
19 ities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required
20 to hold valid Oregon teaching licenses and who have supervisory, control or
21 teaching responsibilities over juveniles committed to the custody of the De-
22 partment of Corrections or the Oregon Youth Authority.

23 “(t) Employees at youth correction facilities as defined in ORS 420.005
24 whose primary job description involves the custody, control, treatment, in-
25 vestigation or supervision of juveniles placed in such facilities.

26 “(u) Employees of the Oregon Youth Authority who are classified as ju-
27 venile parole and probation officers.

28 “(v) Employees of the Department of Human Services who are prohibited
29 from striking under ORS 243.726 and whose duties include the care of resi-
30 dents of residential facilities, as defined in ORS 443.400, that house individ-

1 uals with intellectual or developmental disabilities.

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

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

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

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

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

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

19 “(23) ‘Regular account’ means the account established for each active and
20 inactive member under ORS 238.250.

21 “(24) ‘Retired member’ means a member who is retired for service or dis-
22 ability.

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

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

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

1 “(A) Payments of employee and employer money into a deferred compen-
2 sation plan, which are deemed salary paid in each month of deferral;

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

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

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

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

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

11 “(B) Payments for insurance coverage by an employer on behalf of em-
12 ployee or employee and dependents, for which the employee has no cash op-
13 tion;

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

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

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

18 “(F) Any retirement incentive, retirement severance pay, retirement bonus
19 or retirement gratuitous payment;

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

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

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

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

1 next following.

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

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

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

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

9 **“SECTION 2. (1) The amendments to ORS 238.005 by section 1 of this
10 2016 Act become operative on June 30, 2016.**

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

13 **“(a) Who is employed by the Oregon State Hospital on the operative
14 date specified in subsection (1) of this section as a person who is pro-
15 hibited from striking under ORS 243.726 or as a registered nurse or li-
16 censed practical nurse; or**

17 **“(b) Who becomes employed by the Oregon State Hospital after the
18 operative date specified in subsection (1) of this section as a person
19 who is prohibited from striking under ORS 243.726 or as a registered
20 nurse or licensed practical nurse.**

21 **“(3) A person who is employed by the Oregon State Hospital under
22 subsection (2)(a) of this section is entitled to service under the Public
23 Employees Retirement System as a police officer only for service per-
24 formed on or after the operative date specified in subsection (1) of this
25 section as an employee of the Oregon State Hospital who is prohibited
26 from striking under ORS 243.726 or who is employed as a registered
27 nurse or licensed practical nurse.**

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

30 **“238.005. For purposes of this chapter:**

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

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

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

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

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

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

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

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

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

30 “(8) ‘Employee’ includes, in addition to employees, public officers, but

1 does not include:

2 “(a) Persons engaged as independent contractors.

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

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

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

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

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

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

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

5 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does in-
6 clude:

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

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

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

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

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

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

21 “(15) ‘Member’ means a person who has established membership in the
22 system and whose membership has not been terminated as described in ORS
23 238.095. ‘Member’ includes active, inactive and retired members.

24 “(16) ‘Member account’ means the regular account and the variable ac-
25 count.

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

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

1 “(b) For a person who establishes membership in the system on or after
2 January 1, 1996, as described in ORS 238.430, 55 years of age if the employee
3 retires at that age as a police officer or firefighter or 60 years of age if the
4 employee retires at that age as other than a police officer or firefighter.

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

7 “(19) ‘Police officer’ includes:

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

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

17 “(c) Employees of the Oregon Liquor Control Commission who are clas-
18 sified as regulatory specialists by the administrator of the commission.

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

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

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

26 “(g) Parole and probation officers employed by the Department of Cor-
27 rections, parole and probation officers who are transferred to county em-
28 ployment under ORS 423.549 and adult parole and probation officers, as
29 defined in ORS 181A.355, who are classified as police officers for the pur-
30 poses of this chapter by the county governing body. If a county classifies

1 adult parole and probation officers as police officers for the purposes of this
2 chapter, and the employees so classified are represented by a labor organ-
3 ization, any proposal by the county to change that classification or to cease
4 to classify adult parole and probation officers as police officers for the pur-
5 poses of this chapter is a mandatory subject of bargaining.

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

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

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

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

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

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

17 “(n) Employees of the Oregon State Lottery Commission who are classi-
18 fied by the Director of the Oregon State Lottery as enforcement agents pur-
19 suant to ORS 461.110.

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

21 “(p) An employee who for seven consecutive years has been classified as
22 a police officer as defined by this section, and who is employed or transferred
23 by the Department of Corrections to fill a position designated by the Direc-
24 tor of the Department of Corrections as being eligible for police officer sta-
25 tus.

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

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

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

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

13 “(u) Employees of the Oregon Youth Authority who are classified as ju-
14 venile parole and probation officers.

15 “(v) Employees of the Department of Human Services who are prohibited
16 from striking under ORS 243.726 and whose duties include the care of resi-
17 dents of residential facilities, as defined in ORS 443.400, that house individ-
18 uals with intellectual or developmental disabilities.

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

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

21 “(B) Employed as **physicians licensed under ORS chapter 677**, regis-
22 tered nurses or licensed practical nurses[.]; **or**

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

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

27 “(21) ‘Public employer’ means the state, one of its agencies, any city,
28 county, or municipal or public corporation, any political subdivision of the
29 state or any instrumentality thereof, or an agency created by one or more
30 such governmental organizations to provide governmental services. For pur-

1 poses of this chapter, such agency created by one or more governmental or-
2 ganizations is a governmental instrumentality and a legal entity with power
3 to enter into contracts, hold property and sue and be sued.

4 “(22) ‘Qualifying position’ means one or more jobs with one or more par-
5 ticipating public employers in which an employee performs 600 or more hours
6 of service in a calendar year, excluding any service in a job for which a
7 participating public employer does not provide benefits under this chapter
8 pursuant to an application made under ORS 238.035.

9 “(23) ‘Regular account’ means the account established for each active and
10 inactive member under ORS 238.250.

11 “(24) ‘Retired member’ means a member who is retired for service or dis-
12 ability.

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

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

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

21 “(A) Payments of employee and employer money into a deferred compen-
22 sation plan, which are deemed salary paid in each month of deferral;

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

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

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

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

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

1 “(B) Payments for insurance coverage by an employer on behalf of em-
2 ployee or employee and dependents, for which the employee has no cash op-
3 tion;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 **“(b) Who becomes employed by the Oregon State Hospital after the**
9 **operative date specified in subsection (1) of this section as a physician**
10 **licensed under ORS chapter 677 or as a person who is required to be**
11 **in areas populated by patients to perform the primary function of the**
12 **person’s position.**

13 **“(3) A person who is employed by the Oregon State Hospital under**
14 **subsection (2)(a) of this section and who was not entitled to service**
15 **as a police officer under the amendments to ORS 238.005 by section 1**
16 **of this 2016 Act is entitled to service under the Public Employees Re-**
17 **irement System as a police officer only for service performed on or**
18 **after the operative date specified in subsection (1) of this section as**
19 **an employee of the Oregon State Hospital who is employed as a phy-**
20 **sician licensed under ORS chapter 677 or who is required to be in areas**
21 **populated by patients to perform the primary function of the person’s**
22 **position.**

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

25 “238.005. For purposes of this chapter:

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

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

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

2 “(4) ‘Calendar year’ means 12 calendar months commencing on January
3 1 and ending on December 31 following.

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

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

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

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

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

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

27 “(a) Persons engaged as independent contractors.

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

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

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

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

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

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

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

30 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does in-

1 clude:

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

4 “(b) An employee of the State Forestry Department who is certified by the
5 State Forester as a professional wildland firefighter and whose primary du-
6 ties include the abatement of uncontrolled fires as described in ORS 477.064.

7 “(11) ‘Fiscal year’ means 12 calendar months commencing on July 1 and
8 ending on June 30 following.

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

10 “(13) ‘Inactive member’ means a member who is not employed in a quali-
11 fying position, whose membership has not been terminated in the manner
12 described by ORS 238.095 and who is not retired for service or disability.

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

16 “(15) ‘Member’ means a person who has established membership in the
17 system and whose membership has not been terminated as described in ORS
18 238.095. ‘Member’ includes active, inactive and retired members.

19 “(16) ‘Member account’ means the regular account and the variable ac-
20 count.

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

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

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

30 “(18) ‘Pension’ means annual payments for life derived from contributions

1 by one or more public employers.

2 “(19) ‘Police officer’ includes:

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

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

12 “(c) Employees of the Oregon Liquor Control Commission who are clas-
13 sified as regulatory specialists by the administrator of the commission.

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

17 “(e) Police chiefs and police personnel of a city who are classified as po-
18 lice officers by the council or other governing body of the city.

19 “(f) Police officers who are commissioned by a university under ORS
20 352.121 or 353.125 and who are classified as police officers by the university.

21 “(g) Parole and probation officers employed by the Department of Cor-
22 rections, parole and probation officers who are transferred to county em-
23 ployment under ORS 423.549 and adult parole and probation officers, as
24 defined in ORS 181A.355, who are classified as police officers for the pur-
25 poses of this chapter by the county governing body. If a county classifies
26 adult parole and probation officers as police officers for the purposes of this
27 chapter, and the employees so classified are represented by a labor organ-
28 ization, any proposal by the county to change that classification or to cease
29 to classify adult parole and probation officers as police officers for the pur-
30 poses of this chapter is a mandatory subject of bargaining.

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

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

4 “(j) Employees of the State Department of Agriculture who are classified
5 as livestock police officers by the Director of Agriculture.

6 “(k) Employees of the Department of Public Safety Standards and Train-
7 ing who are classified by the department as other than secretarial or clerical
8 personnel.

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

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

12 “(n) Employees of the Oregon State Lottery Commission who are classi-
13 fied by the Director of the Oregon State Lottery as enforcement agents pur-
14 suant to ORS 461.110.

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

16 “(p) An employee who for seven consecutive years has been classified as
17 a police officer as defined by this section, and who is employed or transferred
18 by the Department of Corrections to fill a position designated by the Direc-
19 tor of the Department of Corrections as being eligible for police officer sta-
20 tus.

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

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

30 “(s) Employees at youth correction facilities and juvenile detention facil-

1 ities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required
2 to hold valid Oregon teaching licenses and who have supervisory, control or
3 teaching responsibilities over juveniles committed to the custody of the De-
4 partment of Corrections or the Oregon Youth Authority.

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

8 “(u) Employees of the Oregon Youth Authority who are classified as ju-
9 venile parole and probation officers.

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

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

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

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

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

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

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

29 “(22) ‘Qualifying position’ means one or more jobs with one or more par-
30 ticipating public employers in which an employee performs 600 or more hours

1 of service in a calendar year, excluding any service in a job for which a
2 participating public employer does not provide benefits under this chapter
3 pursuant to an application made under ORS 238.035.

4 “(23) ‘Regular account’ means the account established for each active and
5 inactive member under ORS 238.250.

6 “(24) ‘Retired member’ means a member who is retired for service or dis-
7 ability.

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

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

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

16 “(A) Payments of employee and employer money into a deferred compen-
17 sation plan, which are deemed salary paid in each month of deferral;

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

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

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

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

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

26 “(B) Payments for insurance coverage by an employer on behalf of em-
27 ployee or employee and dependents, for which the employee has no cash op-
28 tion;

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

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

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

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

5 “(G) Payments for periods of leave of absence after the date the employer
6 and employee have agreed that no future services qualifying pursuant to ORS
7 238.015 (3) will be performed, except for sick leave and vacation;

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

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

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

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

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

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

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

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

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

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

30 **“(b) Who becomes employed by the Oregon State Hospital after the**

1 **operative date specified in subsection (1) of this section.**

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

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

11
