

D R A F T

SUMMARY

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

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to members of the Public Employees Retirement System employed
3 by the Oregon State Hospital; creating new provisions; amending ORS
4 238.005; and declaring an emergency.

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

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

7 238.005. For purposes of this chapter:

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

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

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

14 (4) "Calendar year" means 12 calendar months commencing on January 1
15 and ending on December 31 following.

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

19 (a) An employee who had returned to the service of the employer as of
20 January 1, 1945, and who remained in that employment until having estab-

1 lished membership in the Public Employees Retirement System.

2 (b) An employee who was in the armed services on January 1, 1945, and
3 returned to the service of the employer within one year of the date of being
4 otherwise than dishonorably discharged and remained in that employment
5 until having established membership in the Public Employees Retirement
6 System.

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

14 (7) "Earliest service retirement age" means the age attained by a member
15 when the member could first make application for retirement under the pro-
16 visions of ORS 238.280.

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

19 (a) Persons engaged as independent contractors.

20 (b) Seasonal, emergency or casual workers whose periods of employment
21 with any public employer or public employers do not total 600 hours in any
22 calendar year.

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

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

31 (e) Persons who are employees of a railroad, as defined in ORS 824.020,

1 and who, as such employees, are included in a retirement plan under federal
2 railroad retirement statutes. This paragraph shall be deemed to have been
3 in effect since the inception of the system.

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

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

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

21 (10) "Firefighter" does not include a volunteer firefighter, but does in-
22 clude:

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

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

28 (11) "Fiscal year" means 12 calendar months commencing on July 1 and
29 ending on June 30 following.

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

31 (13) "Inactive member" means a member who is not employed in a quali-

1 fying position, whose membership has not been terminated in the manner
2 described by ORS 238.095 and who is not retired for service or disability.

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

6 (15) "Member" means a person who has established membership in the
7 system and whose membership has not been terminated as described in ORS
8 238.095. "Member" includes active, inactive and retired members.

9 (16) "Member account" means the regular account and the variable ac-
10 count.

11 (17) "Normal retirement age" means:

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

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

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

22 (19) "Police officer" includes:

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

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

1 (c) Employees of the Oregon Liquor Control Commission who are classi-
2 fied as regulatory specialists by the administrator of the commission.

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

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

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

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

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

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

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

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

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

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

31 (n) Employees of the Oregon State Lottery Commission who are classified

1 by the Director of the Oregon State Lottery as enforcement agents pursuant
2 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 facili-
19 ties 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 juve-
27 nile 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-
31 uals with intellectual or developmental disabilities.

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

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

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

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

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

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

18 (23) "Regular account" means the account established for each active and
19 inactive member under ORS 238.250.

20 (24) "Retired member" means a member who is retired for service or dis-
21 ability.

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

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

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

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

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

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

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

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

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

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

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

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

14 (E) Any accelerated payment of an employment contract for a future pe-
15 riod or an advance against future wages;

16 (F) Any retirement incentive, retirement severance pay, retirement bonus
17 or retirement gratuitous payment;

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

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

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

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

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

31 (29) "Variable account" means the account established for a member who

1 participates in the Variable Annuity Account under ORS 238.260.

2 (30) “Vested” means being an active member of the system in each of five
3 calendar years.

4 (31) “Volunteer firefighter” means a firefighter whose position normally
5 requires less than 600 hours of service per year.

6 **SECTION 2. (1) The amendments to ORS 238.005 by section 1 of this
7 2017 Act become operative on June 30, 2017.**

8 **(2) The amendments to ORS 238.005 by section 1 of this 2017 Act
9 apply only to a person:**

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

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

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

25 **SECTION 3.** ORS 238.005, as amended by section 1 of this 2017 Act, is
26 amended to read:

27 238.005. For purposes of this chapter:

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

31 (2) “Annuity” means payments for life derived from contributions made

1 by a member as provided in this chapter.

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

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

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

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

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

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

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

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

28 (a) Persons engaged as independent contractors.

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

1 (c) Persons provided sheltered employment or made-work by a public em-
2 ployer 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 federal
5 program intended primarily to alleviate unemployment. However, any such
6 person shall be considered an “employee” if not otherwise excluded by para-
7 graphs (a) to (c) of this subsection and the public employer elects to have
8 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 participat-
15 ing public employers to an employee who is an active member of the system
16 in three of the calendar years of membership before the effective date of re-
17 tirement of the employee, in which three years the employee was paid the
18 highest salary. The three calendar years in which the employee was paid the
19 largest total salary may include calendar years in which the employee was
20 employed for less than a full calendar year. If the number of calendar years
21 of active membership before the effective date of retirement of the employee
22 is three or fewer, the final average salary for the employee is the average
23 salary per calendar year paid by one or more participating public employers
24 to the employee in all of those years, without regard to whether the em-
25 ployee 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-
31 clude:

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

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

6 (11) "Fiscal year" means 12 calendar months commencing on July 1 and
7 ending on June 30 following.

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

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

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

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

18 (16) "Member account" means the regular account and the variable ac-
19 count.

20 (17) "Normal retirement age" means:

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

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

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

31 (19) "Police officer" includes:

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

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

10 (c) Employees of the Oregon Liquor Control Commission who are classi-
11 fied as regulatory specialists by the administrator of the commission.

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

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

17 (f) Police officers who are commissioned by a university under ORS
18 352.121 or 353.125 and who are classified as police officers by the university.

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

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

30 (i) Employees of the Port of Portland who are classified as airport police
31 by the Board of Commissioners of the Port of Portland.

1 (j) Employees of the State Department of Agriculture who are classified
2 as livestock police officers by the Director of Agriculture.

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

6 (L) Investigators of the Criminal Justice Division of the Department of
7 Justice.

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

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

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

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

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

23 (r) Employees of a school district who are appointed and duly sworn
24 members of a law enforcement agency of the district as provided in ORS
25 332.531 or otherwise employed full-time as police officers commissioned by
26 the district.

27 (s) Employees at youth correction facilities and juvenile detention facili-
28 ties under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required
29 to hold valid Oregon teaching licenses and who have supervisory, control or
30 teaching responsibilities over juveniles committed to the custody of the De-
31 partment of Corrections or the Oregon Youth Authority.

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

4 (u) Employees of the Oregon Youth Authority who are classified as juve-
5 nile parole and probation officers.

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

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

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

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

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

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

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

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

30 (23) "Regular account" means the account established for each active and
31 inactive member under ORS 238.250.

1 (24) "Retired member" means a member who is retired for service or dis-
2 ability.

3 (25) "Retirement credit" means a period of time that is treated as credit-
4 able service for the purposes of this chapter.

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

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

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

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

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

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

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

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

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

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

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

26 (E) Any accelerated payment of an employment contract for a future pe-
27 riod or an advance against future wages;

28 (F) Any retirement incentive, retirement severance pay, retirement bonus
29 or retirement gratuitous payment;

30 (G) Payments for periods of leave of absence after the date the employer
31 and employee have agreed that no future services qualifying pursuant to ORS

1 238.015 (3) will be performed, except for sick leave and vacation;

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

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

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

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

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

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

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

18 **SECTION 4. (1) The amendments to ORS 238.005 by section 3 of this**
19 **2017 Act become operative on June 30, 2019.**

20 **(2) The amendments to ORS 238.005 by section 3 of this 2017 Act**
21 **apply only to a person:**

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

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

1 **(3) A person who is employed by the Oregon State Hospital under**
2 **subsection (2)(a) of this section and who was not entitled to service**
3 **as a police officer under the amendments to ORS 238.005 by section 1**
4 **of this 2017 Act is entitled to service under the Public Employees Re-**
5 **irement System as a police officer only for service performed on or**
6 **after the operative date specified in subsection (1) of this section as**
7 **an employee of the Oregon State Hospital who is employed as a phy-**
8 **sician licensed under ORS chapter 677 or who is required to be in areas**
9 **populated by patients to perform the primary function of the person’s**
10 **position.**

11 **SECTION 5.** ORS 238.005, as amended by sections 1 and 3 of this 2017
12 Act, is amended to read:

13 238.005. For purposes of this chapter:

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

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

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

20 (4) “Calendar year” means 12 calendar months commencing on January 1
21 and ending on December 31 following.

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

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

28 (b) An employee who was in the armed services on January 1, 1945, and
29 returned to the service of the employer within one year of the date of being
30 otherwise than dishonorably discharged and remained in that employment
31 until having established membership in the Public Employees Retirement

1 System.

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

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

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

14 (a) Persons engaged as independent contractors.

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

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

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

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

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

31 (a) The average salary per calendar year paid by one or more participat-

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

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

16 (10) "Firefighter" does not include a volunteer firefighter, but does in-
17 clude:

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

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

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

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

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

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

1 (15) "Member" means a person who has established membership in the
2 system and whose membership has not been terminated as described in ORS
3 238.095. "Member" includes active, inactive and retired members.

4 (16) "Member account" means the regular account and the variable ac-
5 count.

6 (17) "Normal retirement age" means:

7 (a) For a person who establishes membership in the system before January
8 1, 1996, as described in ORS 238.430, 55 years of age if the employee retires
9 at that age as a police officer or firefighter or 58 years of age if the employee
10 retires at that age as other than a police officer or firefighter.

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

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

17 (19) "Police officer" includes:

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

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

27 (c) Employees of the Oregon Liquor Control Commission who are classi-
28 fied as regulatory specialists by the administrator of the commission.

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

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

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

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

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

16 (i) Employees of the Port of Portland who are classified as airport police
17 by the Board of Commissioners of the Port of Portland.

18 (j) Employees of the State Department of Agriculture who are classified
19 as livestock police officers by the Director of Agriculture.

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

23 (L) Investigators of the Criminal Justice Division of the Department of
24 Justice.

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

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

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

30 (p) An employee who for seven consecutive years has been classified as
31 a police officer as defined by this section, and who is employed or transferred

1 by the Department of Corrections to fill a position designated by the Direc-
2 tor of the Department of Corrections as being eligible for police officer sta-
3 tus.

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

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

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

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

21 (u) Employees of the Oregon Youth Authority who are classified as juve-
22 nile parole and probation officers.

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

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

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

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

31 [*(C) Required to be in areas populated by patients to perform the primary*

1 *function of the employees' positions*].

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

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

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

16 (23) "Regular account" means the account established for each active and
17 inactive member under ORS 238.250.

18 (24) "Retired member" means a member who is retired for service or dis-
19 ability.

20 (25) "Retirement credit" means a period of time that is treated as credit-
21 able service for the purposes of this chapter.

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

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

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

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

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

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

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

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

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

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

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

12 (E) Any accelerated payment of an employment contract for a future pe-
13 riod or an advance against future wages;

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

16 (G) Payments for periods of leave of absence after the date the employer
17 and employee have agreed that no future services qualifying pursuant to ORS
18 238.015 (3) will be performed, except for sick leave and vacation;

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

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

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

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

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

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

1 calendar years.

2 (31) “Volunteer firefighter” means a firefighter whose position normally
3 requires less than 600 hours of service per year.

4 **SECTION 6. (1) The amendments to ORS 238.005 by section 5 of this**
5 **2017 Act become operative on June 30, 2021.**

6 **(2) The amendments to ORS 238.005 by section 5 of this 2017 Act**
7 **apply only to a person:**

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

10 **(b) Who becomes employed by the Oregon State Hospital after the**
11 **operative date specified in subsection (1) of this section.**

12 **(3) A person who is employed by the Oregon State Hospital under**
13 **subsection (2)(a) of this section and who was not entitled to service**
14 **as a police officer under the amendments to ORS 238.005 by section 1**
15 **or 3 of this 2017 Act is entitled to service under the Public Employees**
16 **Retirement System as a police officer only for service performed on**
17 **or after the operative date specified in subsection (1) of this section.**

18 **SECTION 7. This 2017 Act being necessary for the immediate pres-**
19 **ervation of the public peace, health and safety, an emergency is de-**
20 **clared to exist, and this 2017 Act takes effect on its passage.**

21
