

# House Bill 3414

Sponsored by Representative PARRISH

## SUMMARY

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

Establishes retirement benefits payable under Oregon Public Service Retirement Plan to persons who establish membership in Public Employees Retirement System on or after effective date of Act. Provides that such persons do not become members of pension program of plan. Allows such persons to contribute up to 10 percent of salary to individual account program of plan. Requires employer match of contributions up to maximum of 10 percent of salary.

Provides break in service and change in service rules for persons who established membership in system before effective date of Act.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to public employee retirement; creating new provisions; amending ORS 238A.320, 238A.330,  
3 238A.335, 238A.340, 238A.350, 238A.375, 238A.400, 238A.410, 243.800 and 341.551; and declaring  
4 an emergency.

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

6 **SECTION 1. Sections 2 and 3 of this 2017 Act are added to and made a part of ORS**  
7 **chapter 238A.**

8 **SECTION 2. (1) Notwithstanding any other provision of this chapter or ORS chapter 238,**  
9 **any person who is employed by a participating public employer on or after the effective date**  
10 **of this 2017 Act, and who has not established membership in the Public Employees Retirement**  
11 **System before the effective date of this 2017 Act, is entitled to receive only the benefits**  
12 **provided under section 3 of this 2017 Act for periods of service with participating public em-**  
13 **ployers on and after the effective date of this 2017 Act, and has no right or claim to any**  
14 **benefit under this chapter except as specifically provided by section 3 of this 2017 Act.**

15 **(2) A person establishes membership in the system before the effective date of this 2017**  
16 **Act for the purposes of this section if:**

17 **(a) The person is a member of the system, or a judge member of the system, on the ef-**  
18 **fective date of this 2017 Act; or**

19 **(b) The person performed any period of service for a participating public employer before**  
20 **the effective date of this 2017 Act, that is credited to the six-month period of employment**  
21 **required of an employee under ORS 238A.100 before an employee may become a member of**  
22 **the system.**

23 **(3)(a) Any person who is an active member of the Public Employees Retirement System**  
24 **on the effective date of this 2017 Act is entitled to receive the benefits provided by this**  
25 **chapter and ORS chapter 238, as in effect immediately before the effective date of this 2017**  
26 **Act, for all service performed before, on and after the effective date of this 2017 Act, unless**  
27 **the person has a break in service or a change in service on or after the effective date of this**  
28 **2017 Act. If the person has a break in service or a change in service on or after the effective**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 date of this 2017 Act, the person is entitled to receive the benefits provided by this chapter  
2 and ORS chapter 238, as in effect immediately before the effective date of this 2017 Act, for  
3 all creditable service performed before the break in service or change in service, and the  
4 benefits provided under section 3 of this 2017 Act for periods of service with participating  
5 public employers after the break in service or change in service.

6 (b) Except as provided in this subsection, a person has a break in service for the purposes  
7 of this subsection if the person performs no service with a participating public employer in  
8 a qualifying position for a period of six consecutive months.

9 (c) Except as provided in this subsection, a person has a change in service for the pur-  
10 poses of this subsection if the person performs service for a participating public employer  
11 during a period of six consecutive months, but none of the service is performed for a par-  
12 ticipating public employer that employed the person on the effective date of this 2017 Act  
13 during that period of six consecutive months.

14 (d) If a person leaves employment with a participating public employer for purposes that  
15 would qualify the person for family leave under ORS 659A.150 to 659A.186, the person has a  
16 break in service for the purposes of this subsection only if the person performs no service  
17 with the participating public employer in a qualifying position for a period of 12 consecutive  
18 months after leaving employment with the participating public employer.

19 (e) If a person leaves employment with a participating public employer for career devel-  
20 opment purposes pursuant to written authorization of the participating public employer un-  
21 der a written policy of the employer that applies generally to the class of employees to which  
22 the member belongs, the person has a break in service or change in service for the purposes  
23 of this subsection only if the person performs no service with the participating public em-  
24 ployer in a qualifying position for a period of 12 consecutive months after leaving employ-  
25 ment with the participating public employer.

26 (f) A person does not have a break in service or change in service for the purposes of this  
27 subsection by reason of any period of time during which the person leaves employment with  
28 a participating public employer for the purpose of serving as a member of the Legislative  
29 Assembly during a legislative session.

30 (g) A person does not have a break in service for the purposes of this subsection by  
31 reason of any period of time during which the person is absent from employment with a  
32 participating public employer and receives a disability retirement allowance under ORS  
33 238.320.

34 (h) A person does not have a break in service or change in service for the purposes of  
35 this subsection by reason of any period of time during which the person leaves employment  
36 with a participating public employer based on the seasonal nature of the person's employ-  
37 ment as long as the person returns to employment with the public employer before the ex-  
38 piration of 12 full calendar months.

39 (i) A person does not have a change in service if the participating public employer that  
40 employed the person on the effective date of this 2017 Act no longer employs the person be-  
41 cause the participating public employer merges with another participating public employer  
42 or transfers the person to another participating public employer.

43 (4) The provisions of this section do not apply to a person elected or appointed as a judge  
44 as defined in ORS 238.500.

45 **SECTION 3.** (1) A person who establishes membership in the system on or after the ef-

1 **fective date of this 2017 Act may not become a member of the pension program of the Oregon**  
 2 **Public Service Retirement Plan described in ORS 238A.100 to 238A.250.**

3 **(2) A person who establishes membership in the system on or after the effective date of**  
 4 **this 2017 Act becomes a member of the individual account program in the manner provided**  
 5 **by this chapter.**

6 **SECTION 4.** ORS 238A.320 is amended to read:

7 238A.320. (1) A member of the individual account program becomes vested in the employee ac-  
 8 count established for the member under ORS 238A.350 (2) on the date the employee account is es-  
 9 tablished.

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

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

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

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

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

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

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

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

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

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

38 **(7) The provisions of this section apply only to a member who establishes membership in**  
 39 **the system before the effective date of this 2017 Act, as described in section 2 of this 2017**  
 40 **Act.**

41 **SECTION 5.** Section 6 of this 2017 Act is added to and made a part of ORS chapter 238A.

42 **SECTION 6.** (1) **The provisions of this section apply to a member who establishes mem-**  
 43 **bership in the system on or after the effective date of this 2017 Act, as described in section**  
 44 **2 of this 2017 Act.**

45 **(2) A member of the individual account program becomes vested in the employee account**

1 established for the member under ORS 238A.350 (2) on the date the employee account is es-  
 2 tablished.

3 (3) A member who makes rollover contributions becomes vested in the rollover account  
 4 established for the member under section ORS 238A.350 (4) on the date the rollover account  
 5 is established.

6 (4) A member becomes vested in the employer account established under ORS 238A.350  
 7 (3) on the date the employee account is established.

8 **SECTION 7.** ORS 238A.330 is amended to read:

9 238A.330. (1) A member of the individual account program who established membership in the  
 10 system before the effective date of this 2017 Act, as described in section 2 of this 2017 Act,  
 11 must make employee contributions to the individual account program of six percent of the member's  
 12 salary.

13 (2) Employee contributions made by a member of the individual account program under this  
 14 section shall be credited by the board to the employee account established for the member under  
 15 ORS 238A.350 (2).

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

20 **SECTION 8.** Section 9 of this 2017 Act is added to and made a part of ORS chapter 238A.

21 **SECTION 9.** (1) A member of the individual account program who established member-  
 22 ship in the system on or after the effective date of this 2017 Act, as described in section 2  
 23 of this 2017 Act, may make employee contributions to the program equal to a specific per-  
 24 centage of the member's salary. The percentage may not be more than 10 percent, or more  
 25 than the percentage allowed by the federal law governing the program's tax qualification.  
 26 The percentage must be a whole number.

27 (2) A participating public employer may not assume or pay the employee contribution  
 28 provided for in this section.

29 (3) Employee contributions made by a member of the individual account program under  
 30 this section shall be credited by the board to the employee account established for the  
 31 member under ORS 238A.350 (2).

32 **SECTION 10.** ORS 238A.335 is amended to read:

33 238A.335. (1) A participating public employer may agree, by a written employment policy or by  
 34 a collective bargaining agreement, to pay the employee contribution required under ORS 238A.330.  
 35 The policy or agreement need not include all members of the individual account program employed  
 36 by the employer.

37 (2) An agreement under this section to pay the required employee contribution may provide that:

38 (a) Employee compensation be reduced to generate the funds needed to make the employee  
 39 contributions; or

40 (b) Additional amounts be paid by the employer for the purpose of making the employee contri-  
 41 butions, and employee compensation not be reduced for the purpose of generating the funds needed  
 42 to make the employee contributions.

43 (3) A participating public employer must give written notice to the Public Employees Retirement  
 44 Board at the time that a written employment policy or collective bargaining agreement described  
 45 in subsection (1) of this section is adopted or changed. The notice must specifically indicate whether

1 the agreement is as described in subsection (2)(a) or (b) of this section. Any change in the manner  
 2 in which employee contributions are to be paid applies only to employee contributions made on and  
 3 after the date the notice is received by the board.

4 **(4) The provisions of this section apply only to employee contributions for a member who**  
 5 **establishes membership in the system before the effective date of this 2017 Act, as described**  
 6 **in section 2 of this 2017 Act.**

7 **SECTION 11.** ORS 238A.340 is amended to read:

8 238A.340. (1) A participating public employer may agree, by a written employment policy or  
 9 agreement, to make employer contributions for members of the individual account program employed  
 10 by the employer. The percentage of salary paid as employer contributions may not be less than one  
 11 percent of salary or more than six percent of salary, and must be a whole number. A participating  
 12 public employer may make an agreement under this section for specific groups of employees em-  
 13 ployed by the public employer.

14 (2) If a participating public employer makes employer contributions under this section and the  
 15 member for which the contributions are made fails to vest in the employer account under the pro-  
 16 visions of ORS 238A.320, the Public Employees Retirement Board shall apply the contributions in  
 17 the employer account against other obligations of the employer under the Oregon Public Service  
 18 Retirement Plan.

19 **(3) The provisions of this section apply only to employer contributions for a member who**  
 20 **establishes membership in the system before the effective date of this 2017 Act, as described**  
 21 **in section 2 of this 2017 Act.**

22 **SECTION 12.** Section 13 of this 2017 Act is added to and made a part of ORS chapter  
 23 **238A.**

24 **SECTION 13.** (1) **The provisions of this section apply to a member who establishes**  
 25 **membership in the system on or after the effective date of this 2017 Act, as described in**  
 26 **section 2 of this 2017 Act.**

27 **(2) A participating public employer must contribute to the individual account program**  
 28 **an amount equal to one percent of a member's salary for every one percent of salary con-**  
 29 **tributed by the member under section 9 of this 2017 Act. In no event may the total contri-**  
 30 **bution by the employer for a member exceed an amount equal to 10 percent of the member's**  
 31 **salary.**

32 **SECTION 14.** ORS 238A.350 is amended to read:

33 238A.350. (1) Upon any contributions being made to the individual account program by or on  
 34 behalf of a member of the program, the Public Employees Retirement Board shall create the account  
 35 or accounts described in this section. Each account shall be adjusted at least annually in accordance  
 36 with rules adopted by the board to reflect any net earnings or losses on those contributions and to  
 37 pay the reasonable administrative costs of maintaining the program to the extent the earnings on  
 38 the assets of the program are insufficient to pay those costs. The adjustments described in this  
 39 subsection shall continue until the account is distributed to the member or forfeited.

40 (2)(a) The board shall establish an employee account, which shall consist of the employee con-  
 41 tributions made by or on behalf of the member as adjusted under subsection (1) of this section.

42 (b) The board shall create a separate employee account for a member who becomes an active  
 43 member for the purpose of service in the Legislative Assembly under ORS 237.650, which shall  
 44 consist of the employee contributions made by or on behalf of the member that are attributable to  
 45 the member's legislative service, as adjusted under subsection (1) of this section.

1 (3) If the public employer agrees to make employer contributions under ORS 238A.340, **or is**  
 2 **required to make employer contributions under section 13 of this 2017 Act**, the board shall  
 3 establish an employer account, which shall consist of the employer contributions made on behalf of  
 4 the member as adjusted under subsection (1) of this section.

5 (4) If the board accepts rollover contributions on behalf of the member, the board shall establish  
 6 a rollover account, which shall consist of the rollover contributions made by the member as adjusted  
 7 under subsection (1) of this section. Contributions and the earnings attributable to the contributions  
 8 must be accounted for separately.

9 (5) The board shall provide an annual statement to each active and inactive member of the  
 10 program that reflects the amount credited to the accounts established under this section. The  
 11 statement shall reflect whether the member is vested in the employer account under the provisions  
 12 of ORS 238A.320.

13 **SECTION 15.** ORS 238A.375 is amended to read:

14 238A.375. (1) An inactive member of the individual account program may elect to receive a dis-  
 15 tribution of the amounts in the member's employee account, rollover account and employer account  
 16 to the extent the member is vested in those accounts under ORS 238A.320 **or section 6 of this 2017**  
 17 **Act** if the inactive member has separated from all service with participating public employers and  
 18 with employers who are treated as part of a participating public employer's controlled group under  
 19 the federal laws and rules governing the status of the system and the fund as a qualified govern-  
 20 mental retirement plan and trust.

21 (2) If an inactive member of the individual account program who is not vested in the employer  
 22 account receives a distribution under subsection (1) of this section, the employer account of the  
 23 member is permanently forfeited as of the date of the distribution.

24 (3) A member may not make an election under this section for less than all of the member's in-  
 25 dividual accounts described in ORS 238A.350 in which the member is vested.

26 (4) A member who is vested in the pension program established under this chapter and who is  
 27 eligible to withdraw from the pension program under ORS 238A.120 may make an election under this  
 28 section only if the member also withdraws from the pension program. A member who has a member  
 29 account established under ORS chapter 238 may make an election under this section only if the  
 30 member also withdraws that member account in the manner provided by ORS 238.265. A member  
 31 who has an account established under ORS 238.440 may make an election under this section only  
 32 if the member also withdraws the account established under ORS 238.440.

33 (5) If an inactive member receives a distribution under subsection (1) of this section and is  
 34 subsequently reemployed by a participating public employer, any service performed before the date  
 35 the member became an inactive member may not be used toward the period of service required for  
 36 vesting in the employer account under ORS 238A.320.

37 **SECTION 16.** ORS 238A.400, as amended by section 8, chapter 33, Oregon Laws 2016, is  
 38 amended to read:

39 238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS  
 40 238A.165, a member of the individual account program shall receive in a lump sum the amounts in  
 41 the member's employee account, rollover account and employer account to the extent the member  
 42 is vested in those accounts under ORS 238A.320 **or section 6 of this 2017 Act**.

43 (2) In lieu of a lump sum payment under subsection (1) of this section, a member of the individ-  
 44 ual account program may elect to receive the amounts in the member's employee account and em-  
 45 ployer account, to the extent the member is vested in those accounts under ORS 238A.320 **or**

1 **section 6 of this 2017 Act**, in substantially equal installments paid over a period of 5, 10, 15 or 20  
2 years, or over a period that is equal to the anticipated life span of the member as actuarially de-  
3 termined by the Public Employees Retirement Board. Installments may be made on a monthly,  
4 quarterly or annual basis. In no event may the period selected by the member exceed the time al-  
5 lowed by the minimum distribution requirements described in subsection (5) of this section. The  
6 board shall by rule establish the manner in which installments will be adjusted to reflect investment  
7 gains and losses on the unpaid balance during the payout period elected by the member under this  
8 subsection. The board by rule may establish minimum monthly amounts payable under this sub-  
9 section. The board may require that a lump sum payment, or an installment schedule different than  
10 the schedules provided for in this subsection, be used to pay the vested amounts in the member's  
11 accounts if those amounts are not adequate to generate the minimum monthly amounts specified by  
12 the rule.

13 (3) A member of the individual account program electing to receive installments under sub-  
14 section (2) of this section must designate a beneficiary or beneficiaries. In the event the member dies  
15 before all amounts in the employee and vested employer accounts are paid, all remaining installment  
16 payments shall be made to the beneficiary or beneficiaries designated by the member. A beneficiary  
17 may elect to receive a lump sum distribution of the remaining amounts.

18 (4) A member who is entitled to receive retirement benefits under ORS chapter 238 may receive  
19 vested amounts in the member's employee account, rollover account and employer account in the  
20 manner provided by this section when the member retires for service under the provisions of ORS  
21 chapter 238.

22 (5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a  
23 member of the individual account program must be distributed over a time period commencing no  
24 later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner  
25 that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations im-  
26 plementing that section, as in effect on December 31, 2015. The board shall adopt rules implementing  
27 those minimum distribution requirements.

28 **SECTION 17.** ORS 238A.410, as amended by section 9, chapter 33, Oregon Laws 2016, is  
29 amended to read:

30 238A.410. (1) If a member of the individual account program dies before retirement, the amounts  
31 in the member's employee account, rollover account and employer account, to the extent the member  
32 is vested in those accounts under ORS 238A.320 **or section 6 of this 2017 Act**, shall be paid in a  
33 lump sum to the beneficiary or beneficiaries designated by the member for the purposes of this  
34 section.

35 (2) If a member of the individual account program is married at the time of death, or there exists  
36 at the time of death any other person who is constitutionally required to be treated in the same  
37 manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the  
38 beneficiary for purposes of the death benefit payable under this section unless the spouse or other  
39 person consents to the designation of a different beneficiary or beneficiaries before the designation  
40 has been made and the consent has not been revoked by the spouse or other person as of the time  
41 of the member's death. Consent and revocation of consent must be in writing, acknowledged by a  
42 notary public, and submitted to the Public Employees Retirement Board in accordance with rules  
43 adopted by the board. If the member's spouse is designated as the member's beneficiary and the  
44 marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as  
45 predeceasing the member for purposes of this section, unless the member expressly designates the

1 former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-  
2 quired to be designated as a beneficiary under the provisions of ORS 238.465.

3 (3) For purposes of this section and ORS 238A.400 (3), if a member fails to designate a benefi-  
4 ciary, or if the person or persons designated do not survive the member, the death benefit provided  
5 for in this section shall be paid to the following person or persons, in the following order of priority:

6 (a) The member's surviving spouse or other person who is constitutionally required to be treated  
7 in the same manner as a spouse;

8 (b) The member's surviving children, in equal shares; or

9 (c) The member's estate.

10 (4) The entire amount of a deceased member's vested accounts must be distributed by December  
11 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other  
12 provision of this chapter, distributions of death benefits under the individual account program must  
13 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-  
14 plementing that section, as in effect on December 31, 2015. The Public Employees Retirement Board  
15 shall adopt rules implementing those minimum distribution requirements.

16 **SECTION 18.** ORS 243.800 is amended to read:

17 243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to  
18 243.945, the governing board of a public university listed in ORS 352.002 shall establish and admin-  
19 ister an Optional Retirement Plan for administrative and academic employees of the public univer-  
20 sity. The Optional Retirement Plan must be a qualified plan under the Internal Revenue Code,  
21 capable of accepting funds transferred under subsection (7) of this section without the transfer being  
22 treated as a taxable event under the Internal Revenue Code, and willing to accept those funds.  
23 Retirement and death benefits shall be provided under the plan by the purchase of annuity contracts,  
24 fixed or variable or a combination thereof, or by contracts for investments in mutual funds.

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

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

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

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

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

36 (a) Remains or becomes a member of the Public Employees Retirement System in accordance  
37 with ORS chapters 238 and 238A; or

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

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

44 (6)(a) An administrative or academic employee who elects to participate in the Optional Retire-  
45 ment Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who



1 is not vested shall be considered by the Public Employees Retirement Board to be a terminated  
2 member under the provisions of ORS 238.095 as of the effective date of the election, and the amount  
3 credited to the member account of the member shall be transferred directly to the Optional Retirement  
4 Plan by the Public Employees Retirement Board in the manner provided by subsection (7) of  
5 this section.

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

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

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

35 (e) An administrative or academic employee who elects to participate in the Optional Retirement  
36 Plan, and who is a vested member of the individual account program of the Oregon Public Service  
37 Retirement Plan as described in ORS 238A.320 **or section 6 of this 2017 Act** on the date that the  
38 election becomes effective, shall be considered an inactive member of the individual account pro-  
39 gram by the Public Employees Retirement Board as of the effective date of the election. An em-  
40 ployee who is subject to the provisions of this paragraph retains all the rights, privileges and  
41 options of an inactive member of the individual account program. An administrative or academic  
42 employee who elects to participate in the Optional Retirement Plan, and who is a member of the  
43 individual account program of the Oregon Public Service Retirement Plan, may make a written re-  
44 quest to the Public Employees Retirement Board that all amounts in the member's employee ac-  
45 count, rollover account and employer account, to the extent the member is vested in those accounts

1 under ORS 238A.320 **or section 6 of this 2017 Act**, be transferred to the Optional Retirement Plan.  
2 The request must be made at the time the member elects to participate in the Optional Retirement  
3 Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts  
4 directly to the Optional Retirement Plan, and shall terminate the membership of the employee in the  
5 individual account program upon making the transfer.

6 (f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the Public Employees Retirement  
7 Board may not treat any employee as an inactive member under the provisions of this sub-  
8 section for the purpose of receiving any benefit under ORS chapter 238 or 238A that requires that  
9 the employee be separated from all service with participating public employers and with employers  
10 who are treated as part of a participating public employer's controlled group under the federal laws  
11 and rules governing the status of the Public Employees Retirement System and the Public Employees  
12 Retirement Fund as a qualified governmental retirement plan and trust.

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

16 (8) An employee participating in the Optional Retirement Plan who was hired before July 1,  
17 2014, shall contribute monthly an amount equal to the percentage of the employee's salary that the  
18 employee would otherwise have contributed as an employee contribution to the Public Employees  
19 Retirement System if the employee had not elected to participate in the Optional Retirement Plan.

20 (9) For an employee participating in the Optional Retirement Plan who was hired before July  
21 1, 2014, the governing board shall contribute monthly to the Optional Retirement Plan the percent-  
22 age of salary of the employee equal to the percentage of salary that would otherwise have been  
23 contributed as an employer contribution on behalf of the employee to the Public Employees Retirement  
24 System, before any offset under ORS 238.229 (2), if the employee had not elected to participate  
25 in the Optional Retirement Plan.

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

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

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

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

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

40 **SECTION 19.** ORS 341.551 is amended to read:

41 341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A, the Office of Community  
42 Colleges and Workforce Development may establish and administer an optional retirement plan for  
43 administrative employees of community college districts who are eligible for membership in the  
44 Public Employees Retirement System. Any community college district may participate in the plan  
45 by giving written notice to the office.

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

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

8 (b) An administrative employee who is hired after the community college district commences  
9 participation in the plan may make an election to participate in the plan within the first six months  
10 of employment, effective on the first day of the month following six full months of employment.

11 (3) An administrative employee who does not elect to participate in the optional retirement plan  
12 remains or becomes a member of the Public Employees Retirement System in accordance with ORS  
13 chapters 238 and 238A.

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

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

28 (b) An administrative employee who elects to participate in the optional retirement plan, who  
29 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall  
30 be considered to be an inactive member by the Public Employees Retirement Board and shall retain  
31 all the rights, privileges and options under ORS chapter 238 unless the employee makes a written  
32 request to the Public Employees Retirement Board for a transfer of the amounts credited to the  
33 member account of the member to the optional retirement plan. A request for a transfer must be  
34 made at the time the member elects to participate in the optional retirement plan. Upon receiving  
35 the request, the Public Employees Retirement Board shall transfer all amounts credited to the  
36 member account of the member directly to the optional retirement plan and shall terminate all  
37 rights, privileges and options of the employee under ORS chapter 238.

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

43 (d) An administrative employee who elects to participate in the optional retirement plan and  
44 who is a vested member of the pension program of the Oregon Public Service Retirement Plan as  
45 described in ORS 238A.115 on the date that the election becomes effective shall be considered an

1 inactive member of the pension program by the Public Employees Retirement Board as of the ef-  
2 fective date of the election. An employee who is subject to the provisions of this paragraph retains  
3 all the rights, privileges and options of an inactive member of the pension program. If the actuarial  
4 equivalent of the employee's benefit under the pension program at the time that the election be-  
5 comes effective is \$5,000 or less, the employee may make a written request to the Public Employees  
6 Retirement Board for a transfer of the employee's interest under the pension program to the optional  
7 retirement plan. The request must be made at the time the member elects to participate in the op-  
8 tional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall  
9 transfer the amount determined to be the actuarial equivalent of the employee's benefit under the  
10 pension program directly to the optional retirement plan and shall terminate the membership of the  
11 employee in the pension program.

12 (e) An administrative employee who elects to participate in the optional retirement plan and  
13 who is a vested member of the individual account program of the Oregon Public Service Retirement  
14 Plan as described in ORS 238A.320 **or section 6 of this 2017 Act** on the date that the election be-  
15 comes effective shall be considered an inactive member of the individual account program by the  
16 Public Employees Retirement Board as of the effective date of the election. An employee who is  
17 subject to the provisions of this paragraph retains all the rights, privileges and options of an inac-  
18 tive member of the individual account program. An administrative employee who elects to partic-  
19 ipate in the optional retirement plan and who is a member of the individual account program of the  
20 Oregon Public Service Retirement Plan may make a written request to the Public Employees Re-  
21 tirement Board that all amounts in the member's employee account, rollover account and employer  
22 account, to the extent the member is vested in those accounts under ORS 238A.320 **or section 6**  
23 **of this 2017 Act**, be transferred to the optional retirement plan. The request must be made at the  
24 time the member elects to participate in the optional retirement plan. Upon receiving the request,  
25 the Public Employees Retirement Board shall transfer the amounts directly to the optional retire-  
26 ment plan and shall terminate the membership of the employee in the individual account program.

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

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

37 (7) An employee participating in the optional retirement plan shall contribute monthly an  
38 amount equal to the percentage of the employee's salary that the employee would otherwise have  
39 contributed as an employee contribution to the Public Employees Retirement System if the employee  
40 had not elected to participate in the optional retirement plan.

41 (8) A participating community college district shall contribute monthly to the optional retire-  
42 ment plan the percentage of salary for each employee participating in the plan that is equal to the  
43 percentage of salary that is required to be made as the employer contribution under ORS 238A.220,  
44 less any contributions made by reason of unfunded liabilities. The district may make contributions  
45 under this subsection only during periods of time in which the employee would be eligible for

1 membership in the Public Employees Retirement System if the employee had not elected to partic-  
2 ipate in the optional retirement plan.

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

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

8 (b) The employee becomes a member of the Public Employees Retirement System under ORS  
9 chapter 238A if the member meets all requirements for membership under ORS chapter 238A; and

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

12 (10) For the purposes of this section, "administrative employee" means a president, vice presi-  
13 dent or dean, or a person holding a position that is the equivalent of a president, vice president or  
14 dean.

15 **SECTION 20. This 2017 Act being necessary for the immediate preservation of the public**  
16 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
17 **on its passage.**

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