

Senate Bill 1068

Sponsored by Senators COURTNEY, HASS

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**.

Directs Public Employees Retirement Board to establish risk sharing account for member of individual account program of Oregon Public Service Retirement Plan. Directs board to apply amounts in risk sharing account to pay costs of pension or other retirement benefits payable to member earned on or after July 1, 2018.

Requires board to allocate portion of employee contributions to risk sharing account. Directs board to adjust risk sharing contribution rate every two years based on changes in pension funding rates under Oregon Public Service Retirement Plan.

Directs board to recalculate employer contribution rates to reflect savings attributable to Act. Provides for expedited review of Act by Supreme Court upon petition by adversely affected party.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

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

RISK SHARING EMPLOYEE CONTRIBUTIONS

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

9 238A.330. (1) A member of the individual account program must make employee contributions
10 to the individual account program of six percent of the member's salary.

11 *[(2) Employee contributions made by a member of the individual account program under this sec-*
12 *tion shall be credited by the board to the employee account established for the member under ORS*
13 *238A.350 (2).]*

14 **(2) The Public Employees Retirement Board shall credit the employee contributions made**
15 **by a member of the individual account program under this section to the employee account**
16 **established for the member under ORS 238A.350 (2) and to the risk sharing account estab-**
17 **lished for the member under ORS 238A.350 (3) in the proportions provided in section 4 of this**
18 **2017 Act.**

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

23 **SECTION 2.** ORS 238A.350 is amended to read:

24 238A.350. (1) Upon any contributions being made to the individual account program by or on
25 behalf of a member of the program, the Public Employees Retirement Board shall create the account
26 or accounts described in this section. Each account shall be adjusted at least annually in accordance

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 with rules adopted by the board to reflect any net earnings or losses on those contributions and to
 2 pay the reasonable administrative costs of maintaining the program to the extent the earnings on
 3 the assets of the program are insufficient to pay those costs. The adjustments described in this
 4 subsection shall continue until the account is distributed to the member [*or*], **forfeited or applied**
 5 **to pay the costs of a pension or other retirement benefits under subsection (3) of this**
 6 **section.**

7 (2)(a) The board shall establish an employee account, which shall consist of the employee con-
 8 tributions made by or on behalf of the member as adjusted under subsection (1) of this section, **that**
 9 **are not allocated under section 4 of this 2017 Act to the risk sharing account established for**
 10 **the member.**

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

15 (3)(a) **The board shall establish a risk sharing account, which shall consist of the em-**
 16 **ployee contributions made by or on behalf of the member under ORS 238A.330, as adjusted**
 17 **under subsection (1) of this section, that are allocated to the account under section 4 of this**
 18 **2017 Act.**

19 (b) **Unless the amounts in a risk sharing account established under this subsection are**
 20 **withdrawn under ORS 238A.375, the amounts in the account shall be applied by the board to**
 21 **pay the costs of the pension or other retirement benefits payable to the member or the**
 22 **member's beneficiary under this chapter or ORS chapter 238 that are earned on or after July**
 23 **1, 2018.**

24 (c) **If the amounts in the risk sharing account established under this subsection exceed**
 25 **the actuarially projected costs of the pension or other retirement benefits payable to the**
 26 **member or the member's beneficiary under this chapter or ORS chapter 238 that are earned**
 27 **on or after July 1, 2018, the board shall refund the excess amounts to the member upon re-**
 28 **irement.**

29 [(3)] (4) If the public employer agrees to make employer contributions under ORS 238A.340, the
 30 board shall establish an employer account, which shall consist of the employer contributions made
 31 on behalf of the member as adjusted under subsection (1) of this section.

32 [(4)] (5) If the board accepts rollover contributions on behalf of the member, the board shall
 33 establish a rollover account, which shall consist of the rollover contributions made by the member
 34 as adjusted under subsection (1) of this section. Contributions and the earnings attributable to the
 35 contributions must be accounted for separately.

36 [(5)] (6) The board shall provide an annual statement to each active and inactive member of the
 37 program that reflects the amount credited to the accounts established under this section. The
 38 statement shall reflect whether the member is vested in the employer account under the provisions
 39 of ORS 238A.320.

40 **SECTION 3. Section 4 of this 2017 Act is added to and made a part of ORS chapter 238A.**

41 **SECTION 4. (1) As used in this section:**

42 (a) **"Pension funding rate" means the total of the following, calculated without taking**
 43 **into account future employee contributions, but including any amount contributed or to be**
 44 **contributed to the risk sharing account established for the member under ORS 238A.350 (3)**
 45 **prior to adjustment of the risk sharing contribution rate under this section:**

1 (A) The employer contribution rate necessary to fund the normal cost for members of
2 the pension program, including police officers and firefighters, expressed as a percentage of
3 salary; and

4 (B) The employer contribution rate necessary for payment of the unfunded actuarial li-
5 ability of the pension program, expressed as a percentage of salary.

6 (b) "Risk sharing contribution rate" means the portion of the employee contribution re-
7 quired under ORS 238A.330 that is allocated to the risk sharing account established for the
8 member under ORS 238A.350 (3).

9 (2) Beginning on July 1, 2018, the risk sharing contribution rate is one percent of the
10 member's salary.

11 (3) Beginning on July 1, 2019, the risk sharing contribution rate is two percent of the
12 member's salary.

13 (4) For the two years beginning on July 1, 2021, and every two years thereafter, the
14 Public Employees Retirement Board shall adjust the risk sharing contribution rate, to be-
15 come effective on July 1 of each odd-numbered year, in the following manner:

16 (a) On or before January 1 of each odd-numbered year, the board shall determine the
17 pension funding rate based on the actuarial valuation used to determine employer contribu-
18 tions under the methods and assumptions set by the board for the two-year period for which
19 the risk sharing contribution rate is being adjusted.

20 (b) If the pension funding rate is less than or equal to eight percent, the risk sharing
21 contribution rate shall be zero percent.

22 (c) If the pension funding rate is greater than eight percent but less than or equal to 10
23 percent, the risk sharing contribution rate shall be a percentage of the member's salary
24 equal to the amount of the pension funding rate that exceeds eight percent.

25 (d) If the pension funding rate is greater than 10 percent but less than or equal to 12
26 percent, the risk sharing contribution rate shall be two percent.

27 (e)(A) If the pension funding rate is greater than 12 percent, the risk sharing contribu-
28 tion rate shall be two percent of the member's salary plus a percentage of the member's
29 salary equal to one-half of the amount of the pension funding rate that exceeds 12 percent.

30 (B) Notwithstanding subparagraph (A) of this paragraph, if the pension funding rate is
31 greater than 12 percent, the board may not increase the risk sharing contribution rate by
32 more than one percent for any two-year period.

33 (f) There is no limit on the amount by which the risk sharing contribution rate may de-
34 crease for any two-year period.

35 (g) The risk sharing contribution rate may not exceed four percent.

36 **SECTION 5.** ORS 238A.320 is amended to read:

37 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
38 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
39 tablished.

40 (2) A member who makes rollover contributions becomes vested in the rollover account estab-
41 lished for the member under ORS 238A.350 [(4)] (5) on the date the rollover account is established.

42 (3) Except as provided in subsection (4) of this section, if an employer makes employer contri-
43 butions for a member under ORS 238A.340, the member becomes vested in the employer account
44 established under ORS 238A.350 [(3)] (4) on the earliest of the following dates:

45 (a) The date on which the member completes at least 600 hours of service in each of five cal-

1 endar years. The five calendar years need not be consecutive, but are subject to the provisions of
2 subsection (5) of this section.

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

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

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

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

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

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

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

23 **(7) A member becomes vested in the risk sharing account established for the member**
24 **under ORS 238A.350 (3) on the date the account is established.**

25 **SECTION 6.** ORS 238A.375 is amended to read:

26 238A.375. (1)(a) An inactive member of the individual account program may elect to receive a
27 distribution of the amounts in the member's employee account, rollover account and employer ac-
28 count to the extent the member is vested in those accounts under ORS 238A.320 if the inactive
29 member has separated from all service with participating public employers and with employers who
30 are treated as part of a participating public employer's controlled group under the federal laws and
31 rules governing the status of the system and the fund as a qualified governmental retirement plan
32 and trust.

33 **(b)(A) An inactive member of the individual account program may elect to receive a dis-**
34 **tribution of the amounts in the member's risk sharing account established for the member**
35 **under ORS 238A.350 (3) if:**

36 **(i) The inactive member has separated from all service with participating public employ-**
37 **ers and with employers who are treated as part of a participating public employer's con-**
38 **trolled group under the federal laws and rules governing the status of the system and the**
39 **fund as a qualified governmental retirement plan and trust; and**

40 **(ii) The member is eligible to withdraw and withdraws from the pension program under**
41 **ORS 238A.120.**

42 **(B) The withdrawal of the member's accounts under this paragraph cancels all member-**
43 **ship rights in the Public Employees Retirement System.**

44 (2) If an inactive member of the individual account program who is not vested in the employer
45 account receives a distribution under subsection (1) of this section, the employer account of the

1 member is permanently forfeited as of the date of the distribution.

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

4 (4) A member who is vested in the pension program established under this chapter and who is
5 eligible to withdraw from the pension program under ORS 238A.120 may make an election under this
6 section only if the member also withdraws from the pension program.

7 (5) A member who has a member account established under ORS chapter 238 may make an
8 election under this section only if the member also withdraws that member account in the manner
9 provided by ORS 238.265. A member who has an account established under ORS 238.440 may make
10 an election under this section only if the member also withdraws the account established under ORS
11 238.440.

12 [(5)] (6) If an inactive member receives a distribution under subsection (1) of this section and is
13 subsequently reemployed by a participating public employer, any service performed before the date
14 the member became an inactive member may not be used toward the period of service required for
15 vesting in the employer account under ORS 238A.320.

16 **SECTION 7.** ORS 238A.410, as amended by section 9, chapter 33, Oregon Laws 2016, is amended
17 to read:

18 238A.410. (1)(a) If a member of the individual account program dies before retirement, the
19 amounts in the member's employee account, rollover account and employer account, to the extent
20 the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the
21 beneficiary or beneficiaries designated by the member for the purposes of this section.

22 **(b) If a member of the individual account program dies before retirement, the amounts**
23 **in the risk sharing account established for the member under ORS 238A.350 (3) shall be ap-**
24 **plied by the Public Employees Retirement Board to pay the costs of any benefit payable un-**
25 **der ORS 238A.230. If the amounts in the risk sharing account exceed the costs of the benefit**
26 **payable under ORS 238A.230, the excess amounts shall be paid in a lump sum to the benefi-**
27 **ciary or beneficiaries designated by the member for the purposes of this section.**

28 (2) If a member of the individual account program is married at the time of death, or there exists
29 at the time of death any other person who is constitutionally required to be treated in the same
30 manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the
31 beneficiary for purposes of the death benefit payable under this section unless the spouse or other
32 person consents to the designation of a different beneficiary or beneficiaries before the designation
33 has been made and the consent has not been revoked by the spouse or other person as of the time
34 of the member's death. Consent and revocation of consent must be in writing, acknowledged by a
35 notary public, and submitted to the [*Public Employees Retirement*] board in accordance with rules
36 adopted by the board. If the member's spouse is designated as the member's beneficiary and the
37 marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as
38 predeceasing the member for purposes of this section, unless the member expressly designates the
39 former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-
40 quired to be designated as a beneficiary under the provisions of ORS 238.465.

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

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

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

2 (c) The member's estate.

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

9 **SECTION 8.** ORS 243.800 is amended to read:

10 243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to
 11 243.945, the governing board of a public university listed in ORS 352.002 shall establish and admin-
 12 ister an Optional Retirement Plan for administrative and academic employees of the public univer-
 13 sity. The Optional Retirement Plan must be a qualified plan under the Internal Revenue Code,
 14 capable of accepting funds transferred under subsection (7) of this section without the transfer being
 15 treated as a taxable event under the Internal Revenue Code, and willing to accept those funds.
 16 Retirement and death benefits shall be provided under the plan by the purchase of annuity contracts,
 17 fixed or variable or a combination thereof, or by contracts for investments in mutual funds.

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

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

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

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

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

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

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

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

37 (6)(a) An administrative or academic employee who elects to participate in the Optional Retirement
 38 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who
 39 is not vested shall be considered by the Public Employees Retirement Board to be a terminated
 40 member under the provisions of ORS 238.095 as of the effective date of the election, and the
 41 [*amount*] **amounts** credited to the member [*account*] **accounts** of the member **established under**
 42 **ORS 238.250 and 238.260** shall be transferred directly to the Optional Retirement Plan by the Public
 43 Employees Retirement Board in the manner provided by subsection (7) of this section.

44 (b) An administrative or academic employee who elects to participate in the Optional Retirement
 45 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is

1 vested shall be considered to be an inactive member by the Public Employees Retirement Board and
2 shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes
3 a written request to the Public Employees Retirement Board for a transfer of the amounts credited
4 to the member *[account]* **accounts** of the member **established under ORS 238.250 and 238.260** to
5 the Optional Retirement Plan. A request for a transfer must be made at the time the member elects
6 to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees
7 Retirement Board shall transfer all amounts credited to the member *[account]* **accounts** of the
8 member **established under ORS 238.250 and 238.260** directly to the Optional Retirement Plan, and
9 shall terminate all rights, privileges and options of the employee *[under ORS chapter 238]* **as pro-**
10 **vided in ORS 238.095.**

11 (c) *[An administrative or academic employee who elects to participate in the Optional Retirement*
12 *Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement*
13 *Plan as described in ORS 238A.115]* **An administrative or academic employee who elects to**
14 **participate in the Optional Retirement Plan and who is a member of the pension program**
15 **of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that**
16 **the election becomes effective, but who has not vested in the program under ORS 238A.115**
17 on the date that the election becomes effective, shall be considered to be a terminated member of
18 the pension program by the Public Employees Retirement Board as of the effective date of the
19 election. **The board shall transfer the amounts credited to the member accounts of the**
20 **member directly to the Optional Retirement Plan in the manner provided by subsection (7)**
21 **of this section.**

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

36 (e) An administrative or academic employee who elects to participate in the Optional Retirement
37 Plan, and who is a vested member of the individual account program of the Oregon Public Service
38 Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall
39 be considered an inactive member of the individual account program by the Public Employees Re-
40 tirement Board as of the effective date of the election. An employee who is subject to the provisions
41 of this paragraph retains all the rights, privileges and options of an inactive member of the indi-
42 vidual account program. An administrative or academic employee who elects to participate in the
43 Optional Retirement Plan, and who is a member of the individual account program of the Oregon
44 Public Service Retirement Plan, may make a written request to the Public Employees Retirement
45 Board that all amounts *[in the member's employee account, rollover account and employer account]*

1 **credited to the member accounts of the member established under ORS 238A.350**, to the extent
2 the member is vested in those accounts under ORS 238A.320, be transferred to the Optional Retirement
3 Plan. The request must be made at the time the member elects to participate in the Optional
4 Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer
5 the amounts directly to the Optional Retirement Plan, and shall terminate the membership of the
6 employee in the individual account program upon making the transfer.

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

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

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

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

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

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

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

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

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

41 **SECTION 9.** ORS 341.551 is amended to read:

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

1 by giving written notice to the office.

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

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

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

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

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

23 (5)(a) An administrative employee who elects to participate in the optional retirement plan, who
24 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall
25 be considered by the Public Employees Retirement Board to be a terminated member under the
26 provisions of ORS 238.095 as of the effective date of the election, and the *[amount]* **amounts** credited
27 to the member *[account]* **accounts** of the member **established under ORS 238.250 and 238.260** shall
28 be transferred directly to the optional retirement plan by the Public Employees Retirement Board
29 in the manner provided by subsection (6) of this section.

30 (b) An administrative employee who elects to participate in the optional retirement plan, who
31 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall
32 be considered to be an inactive member by the Public Employees Retirement Board and shall retain
33 all the rights, privileges and options under ORS chapter 238 unless the employee makes a written
34 request to the Public Employees Retirement Board for a transfer of the amounts credited to the
35 member *[account]* **accounts** of the member **established under ORS 238.250 and 238.260** to the op-
36 tional retirement plan. A request for a transfer must be made at the time the member elects to
37 participate in the optional retirement plan. Upon receiving the request, the Public Employees Re-
38 tirement Board shall transfer all amounts credited to the member *[account]* **accounts** of the member
39 **established under ORS 238.250 and 238.260** directly to the optional retirement plan and shall ter-
40 minate all rights, privileges and options of the employee *[under ORS chapter 238]* **as provided in**
41 **ORS 238.095.**

42 (c) *[An administrative employee who elects to participate in the optional retirement plan and who*
43 *is not a vested member of the pension program of the Oregon Public Service Retirement Plan as de-*
44 *scribed in ORS 238A.115]* **An administrative employee who elects to participate in the optional**
45 **retirement plan and who is a member of the pension program of the Oregon Public Service**

1 **Retirement Plan as described in ORS 238A.100 on the date that the election becomes effec-**
 2 **tive, but who has not vested in the program under ORS 238A.115** on the date that the election
 3 becomes effective, shall be considered to be a terminated member of the pension program by the
 4 Public Employees Retirement Board as of the effective date of the election. **The board shall**
 5 **transfer the amounts credited to the member accounts of the member directly to the op-**
 6 **tional retirement plan in the manner provided by subsection (6) of this section.**

7 (d) An administrative employee who elects to participate in the optional retirement plan and
 8 who is a vested member of the pension program of the Oregon Public Service Retirement Plan as
 9 described in ORS 238A.115 on the date that the election becomes effective shall be considered an
 10 inactive member of the pension program by the Public Employees Retirement Board as of the ef-
 11 fective date of the election. An employee who is subject to the provisions of this paragraph retains
 12 all the rights, privileges and options of an inactive member of the pension program. If the actuarial
 13 equivalent of the employee's benefit under the pension program at the time that the election be-
 14 comes effective is \$5,000 or less, the employee may make a written request to the Public Employees
 15 Retirement Board for a transfer of the employee's interest under the pension program to the optional
 16 retirement plan. The request must be made at the time the member elects to participate in the op-
 17 tional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall
 18 transfer the amount determined to be the actuarial equivalent of the employee's benefit under the
 19 pension program directly to the optional retirement plan and shall terminate the membership of the
 20 employee in the pension program.

21 (e) An administrative employee who elects to participate in the optional retirement plan and
 22 who is a vested member of the individual account program of the Oregon Public Service Retirement
 23 Plan as described in ORS 238A.320 on the date that the election becomes effective shall be consid-
 24 ered an inactive member of the individual account program by the Public Employees Retirement
 25 Board as of the effective date of the election. An employee who is subject to the provisions of this
 26 paragraph retains all the rights, privileges and options of an inactive member of the individual ac-
 27 count program. An administrative employee who elects to participate in the optional retirement plan
 28 and who is a member of the individual account program of the Oregon Public Service Retirement
 29 Plan may make a written request to the Public Employees Retirement Board that all amounts [*in the*
 30 *member's employee account, rollover account and employer account*] **credited to the member ac-**
 31 **counts of the member established under ORS 238A.350**, to the extent the member is vested in
 32 those accounts under ORS 238A.320, be transferred to the optional retirement plan. The request
 33 must be made at the time the member elects to participate in the optional retirement plan. Upon
 34 receiving the request, the Public Employees Retirement Board shall transfer the amounts directly
 35 to the optional retirement plan and shall terminate the membership of the employee in the individual
 36 account program.

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

44 (6) Any amounts transferred from the Public Employees Retirement Fund under subsection (5)
 45 of this section shall be transferred directly to the optional retirement plan by the Public Employees

1 Retirement Board and shall not be made available to the employee.

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

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

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

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

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

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

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

25 **SECTION 10. (1) Section 4 of this 2017 Act and the amendments to ORS 238A.320,**
26 **238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 1, 2 and 5 to 9 of this**
27 **2017 Act become operative on July 1, 2018.**

28 **(2) The Public Employees Retirement Board may take any action before the operative**
29 **date specified in subsection (1) of this section to enable the board to exercise, on and after**
30 **the operative date specified in subsection (1) of this section, all the duties, functions and**
31 **powers conferred on the board by section 4 of this 2017 Act and the amendments to ORS**
32 **238A.320, 238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 1, 2 and 5 to**
33 **9 of this 2017 Act.**

34 35 RECALCULATION OF EMPLOYER RATES

36
37 **SECTION 11. (1) As soon as practicable after the effective date of this 2017 Act, the**
38 **Public Employees Retirement Board shall:**

39 **(a) Determine the amount of savings in employer contributions that are attributable to**
40 **the provisions of this 2017 Act; and**

41 **(b) Recalculate the contribution rates of all employers, pursuant to ORS 238.225, to re-**
42 **fect the provisions of this 2017 Act.**

43 **(2) The board shall issue corrected contribution rate orders to employers affected by**
44 **rates recalculated under this section as soon as is practicable after the effective date of this**
45 **2017 Act. The corrected rates are effective on July 1, 2017.**

REVIEW BY SUPREME COURT

SECTION 12. (1) Jurisdiction is conferred upon the Supreme Court to determine in the manner provided by this section whether this 2017 Act breaches any contract between members of the Public Employees Retirement System and their employers or violates any provision of the Oregon Constitution or of the United States Constitution, including but not limited to impairment of contract rights of members of the Public Employees Retirement System under Article I, section 21, of the Oregon Constitution, or Article I, section 10, clause 1, of the United States Constitution.

(2) A person who is adversely affected by this 2017 Act or who will be adversely affected by this 2017 Act may institute a proceeding for review by filing with the Supreme Court a petition that meets the following requirements:

(a) The petition must be filed within 60 days after the effective date of this 2017 Act.

(b) The petition must include the following:

(A) A statement of the basis of the challenge; and

(B) A statement and supporting affidavit showing how the petitioner is adversely affected.

(3) The petitioner shall serve a copy of the petition by registered or certified mail upon the Public Employees Retirement Board, the Attorney General and the Governor.

(4) Proceedings for review under this section shall be given priority over all other matters before the Supreme Court.

(5) The Supreme Court shall allow public employers participating in the Public Employees Retirement System to intervene in any proceeding under this section.

(6)(a) The Supreme Court shall allow members of the Legislative Assembly to intervene in any proceeding relating to this 2017 Act. After a member intervenes in a proceeding relating to this 2017 Act, the member has standing to participate in the proceeding even if the member ceases to be a member of the Legislative Assembly.

(b) A member of the Senate or the House of Representatives who intervenes in or participates in a proceeding under this subsection may not use public funds to pay legal expenses incurred in intervening in or participating in the proceeding.

(7) In the event the Supreme Court determines that there are factual issues in the petition, the Supreme Court may appoint a special master to hear evidence and to prepare recommended findings of fact.

CAPTIONS

SECTION 13. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.

EMERGENCY CLAUSE

SECTION 14. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.

