

Requested by Senator DEVLIN

**PROPOSED AMENDMENTS TO  
SENATE BILL 214**

1 On page 1 of the printed bill, delete line 3 and insert “and amending ORS  
2 238.005, 238A.005 and 243.800.”.

3 Delete lines 5 through 30 and delete pages 2 through 4 and insert:

4 **“SECTION 1. (1) A public university listed in ORS 352.002 or the  
5 Oregon Health and Science University may classify a position as a  
6 post-doctoral scholar position if the position:**

7 **“(a) Requires a doctoral or equivalent degree;**

8 **“(b) Provides a temporary and defined period of employment with  
9 the university; and**

10 **“(c) Provides clinical or academic research training under formal  
11 mentorship.**

12 **“(2) As used in this section, ‘formal mentorship’ means a training  
13 and mentoring program that:**

14 **“(a) Is set forth in writing;**

15 **“(b) Is directed by a faculty member of a public university listed in  
16 ORS 352.002 or the Oregon Health and Science University; and**

17 **“(c) Teaches professional research skills needed to pursue the  
18 post-doctoral scholar’s anticipated career path in accordance with the  
19 requirements necessary for the funding of sponsored research projects  
20 that include funding for post-doctoral scholars.**

21 **“SECTION 2. ORS 238.005 is amended to read:**

1 “238.005. For purposes of this chapter:

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

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

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

8 “(4) ‘Calendar year’ means 12 calendar months commencing on January  
9 1 and ending on December 31 following.

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

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

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

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

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

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

3 “(a) Persons engaged as independent contractors.

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

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

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

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

19 “**(f) Persons employed in positions classified as post-doctoral scholar**  
20 **positions by a public university listed in ORS 352.002, or by the Oregon**  
21 **Health and Science University, under section 1 of this 2017 Act.**

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

23 “(a) The average salary per calendar year paid by one or more partic-  
24 ipating public employers to an employee who is an active member of the  
25 system in three of the calendar years of membership before the effective date  
26 of retirement of the employee, in which three years the employee was paid  
27 the highest salary. The three calendar years in which the employee was paid  
28 the largest total salary may include calendar years in which the employee  
29 was employed for less than a full calendar year. If the number of calendar  
30 years of active membership before the effective date of retirement of the

1 employee is three or fewer, the final average salary for the employee is the  
2 average salary per calendar year paid by one or more participating public  
3 employers to the employee in all of those years, without regard to whether  
4 the employee was employed for the full calendar year.

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

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

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

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

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

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

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

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

25 “(15) ‘Member’ means a person who has established membership in the  
26 system and whose membership has not been terminated as described in ORS  
27 238.095. ‘Member’ includes active, inactive and retired members.

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

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

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

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

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

11      “(19) ‘Police officer’ includes:

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

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

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

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

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

28      “(f) Police officers who are commissioned by a university under ORS  
29      352.121 or 353.125 and who are classified as police officers by the university.

30      “(g) Parole and probation officers employed by the Department of Cor-

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

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

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

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

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

18 “(L) Investigators of the Criminal Justice Division of the Department of  
19 Justice.

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

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

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

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

30 “(q) An employee of the Department of Corrections classified as a police

1 officer on or prior to July 27, 1989, whether or not that classification was  
2 authorized by law, as long as the employee remains in the position held on  
3 July 27, 1989. The initial classification of an employee under a system im-  
4 plemented pursuant to ORS 240.190 does not affect police officer status.

5 “(r) Employees of a school district who are appointed and duly sworn  
6 members of a law enforcement agency of the district as provided in ORS  
7 332.531 or otherwise employed full-time as police officers commissioned by  
8 the district.

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

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

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

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

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

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

1 to enter into contracts, hold property and sue and be sued.

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

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

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

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

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

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

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

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

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

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

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

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

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



1 tion;

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

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

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

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

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

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

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

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

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

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

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

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

27 **“SECTION 3.** ORS 238A.005, as amended by section 2, chapter 33, Oregon  
28 Laws 2016, is amended to read:

29 “238A.005. For the purposes of this chapter:

30 “(1) ‘Active member’ means a member of the pension program or the in-

1 individual account program of the Oregon Public Service Retirement Plan who  
2 is actively employed in a qualifying position.

3 “(2) ‘Actuarial equivalent’ means a payment or series of payments having  
4 the same value as the payment or series of payments replaced, computed on  
5 the basis of interest rate and mortality assumptions adopted by the board.

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

7 “(4) ‘Eligible employee’ means a person who performs services for a par-  
8 ticipating public employer, including elected officials other than judges. ‘El-  
9 igible employee’ does not include:

10 “(a) Persons engaged as independent contractors;

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

12 “(c) Persons provided sheltered employment or make-work by a public  
13 employer;

14 “(d) Persons categorized by a participating public employer as student  
15 employees;

16 “(e) Any person who is an inmate of a state institution;

17 “(f) Employees of foreign trade offices of the Oregon Business Develop-  
18 ment Department who live and perform services in foreign countries under  
19 the provisions of ORS 285A.075 (1)(g);

20 “(g) An employee actively participating in an alternative retirement pro-  
21 gram established under ORS 353.250 or an optional retirement plan estab-  
22 lished under ORS 341.551;

23 “(h) Employees of a public university listed in ORS 352.002 who are ac-  
24 tively participating in an optional retirement plan offered under ORS 243.800;

25 “(i) **Persons employed in positions classified as post-doctoral scholar**  
26 **positions by a public university listed in ORS 352.002, or by the Oregon**  
27 **Health and Science University, under section 1 of this 2017 Act;**

28 “[i] (j) Any employee who belongs to a class of employees that was not  
29 eligible on August 28, 2003, for membership in the system under the pro-  
30 visions of ORS chapter 238 or other law;

1       “[(j)] **(k)** Any person who belongs to a class of employees who are not  
2 eligible to become members of the Oregon Public Service Retirement Plan  
3 under the provisions of ORS 238A.070 (2);

4       “[(k)] **(L)** Any person who is retired under ORS 238A.100 to 238A.250 or  
5 ORS chapter 238 and who continues to receive retirement benefits while  
6 employed; and

7       “[(L)] **(m)** Judges.

8       “(5) ‘Firefighter’ means:

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

11       “(b) The State Fire Marshal, the chief deputy state fire marshal and  
12 deputy state fire marshals; and

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

16       “(6) ‘Fund’ means the Public Employees Retirement Fund.

17       “(7)(a) ‘Hour of service’ means:

18       “(A) An hour for which an eligible employee is directly or indirectly paid  
19 or entitled to payment by a participating public employer for performance  
20 of duties in a qualifying position; and

21       “(B) An hour of vacation, holiday, illness, incapacity, jury duty, military  
22 duty or authorized leave during which an employee does not perform duties  
23 but for which the employee is directly or indirectly paid or entitled to pay-  
24 ment by a participating public employer for services in a qualifying position,  
25 as long as the hour is within the number of hours regularly scheduled for  
26 the performance of duties during the period of vacation, holiday, illness, in-  
27 capacity, jury duty, military duty or authorized leave.

28       “(b) ‘Hour of service’ does not include any hour for which payment is  
29 made or due under a plan maintained solely for the purpose of complying  
30 with applicable workers’ compensation laws or unemployment compensation

1 laws.

2 “(8) ‘Inactive member’ means a member of the pension program or the  
3 individual account program of the Oregon Public Service Retirement Plan  
4 whose membership has not been terminated, who is not a retired member and  
5 who is not employed in a qualifying position.

6 “(9) ‘Individual account program’ means the defined contribution individ-  
7 ual account program of the Oregon Public Service Retirement Plan estab-  
8 lished under ORS 238A.025.

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

12 “(11) ‘Member’ means an eligible employee who has established member-  
13 ship in the pension program or the individual account program of the Oregon  
14 Public Service Retirement Plan and whose membership has not been termi-  
15 nated under ORS 238A.110 or 238A.310.

16 “(12) ‘Participating public employer’ means a public employer as defined  
17 in ORS 238.005 that provides retirement benefits for employees of the public  
18 employer under the system.

19 “(13) ‘Pension program’ means the defined benefit pension program of the  
20 Oregon Public Service Retirement Plan established under ORS 238A.025.

21 “(14) ‘Police officer’ means a police officer as described in ORS 238.005.

22 “(15) ‘Qualifying position’ means one or more jobs with one or more par-  
23 ticipating public employers in which an eligible employee performs 600 or  
24 more hours of service in a calendar year, excluding any service in a job for  
25 which benefits are not provided under the Oregon Public Service Retirement  
26 Plan pursuant to ORS 238A.070 (2).

27 “(16) ‘Retired member’ means a pension program member who is receiving  
28 a pension as provided in ORS 238A.180 to 238A.195.

29 “(17)(a) ‘Salary’ means the remuneration paid to an active member in re-  
30 turn for services to the participating public employer, including

1 remuneration in the form of living quarters, board or other items of value,  
2 to the extent the remuneration is includable in the employee's taxable in-  
3 come under Oregon law. 'Salary' includes the additional amounts specified  
4 in paragraph (b) of this subsection, but does not include the amounts speci-  
5 fied in paragraph (c) of this subsection, regardless of whether those amounts  
6 are includable in taxable income.

7 "(b) 'Salary' includes the following amounts:

8 "(A) Payments of employee and employer money into a deferred compen-  
9 sation plan that are made at the election of the employee.

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

12 "(C) Any amount that is contributed to a cafeteria plan or qualified  
13 transportation fringe benefit plan by the employer at the election of the  
14 employee and that is not includable in the taxable income of the employee  
15 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2015.

16 "(D) Any amount that is contributed to a cash or deferred arrangement  
17 by the employer at the election of the employee and that is not included in  
18 the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in  
19 effect on December 31, 2015.

20 "(E) Retroactive payments described in ORS 238.008.

21 "(F) The amount of an employee contribution to the individual account  
22 program that is paid by the employer and deducted from the compensation  
23 of the employee, as provided under ORS 238A.335 (1) and (2)(a).

24 "(G) The amount of an employee contribution to the individual account  
25 program that is not paid by the employer under ORS 238A.335.

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

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

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

1 “(B) Payments made on account of an employee’s death.

2 “(C) Any lump sum payment for accumulated unused sick leave, vacation  
3 leave or other paid leave.

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

6 “(E) Any retirement incentive, retirement bonus or retirement gratuitous  
7 payment.

8 “(F) Payment for a leave of absence after the date the employer and em-  
9 ployee have agreed that no future services in a qualifying position will be  
10 performed.

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

16 “(H) The amount of an employee contribution to the individual account  
17 program that is paid by the employer and is not deducted from the compen-  
18 sation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

19 “(I) Any amount in excess of \$200,000 for a calendar year. If any period  
20 over which salary is determined is less than 12 months, the \$200,000 limita-  
21 tion for that period shall be multiplied by a fraction, the numerator of which  
22 is the number of months in the determination period and the denominator  
23 of which is 12. The board shall adopt rules adjusting this dollar limit to in-  
24 corporate cost-of-living adjustments authorized by the Internal Revenue Ser-  
25 vice.

26 “(18) ‘System’ means the Public Employees Retirement System.

27 **“SECTION 4.** ORS 243.800 is amended to read:

28 “243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A  
29 or ORS 243.910 to 243.945, the governing board of a public university listed  
30 in ORS 352.002 shall establish and administer an Optional Retirement Plan

1 for administrative and academic employees of the public university. The  
2 Optional Retirement Plan must be a qualified plan under the Internal Reve-  
3 nue Code, capable of accepting funds transferred under subsection (7) of this  
4 section without the transfer being treated as a taxable event under the  
5 Internal Revenue Code, and willing to accept those funds. Retirement and  
6 death benefits shall be provided under the plan by the purchase of annuity  
7 contracts, fixed or variable or a combination thereof, or by contracts for in-  
8 vestments in mutual funds.

9 “(2) An administrative or academic employee **who is eligible to remain**  
10 **or become a member of the Public Employees Retirement System** may  
11 elect to participate in the Optional Retirement Plan upon completion of:

12 “(a) Six hundred hours of employment, or the equivalent as determined  
13 by the governing board; and

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

16 “(3) An administrative or academic employee **who is eligible to remain**  
17 **or become a member of the Public Employees Retirement System, in-**  
18 **cluding an administrative or academic employee who previously par-**  
19 **ticipated in the Optional Retirement Plan because of employment in**  
20 **a position classified as a post-doctoral scholar position under section**  
21 **1 of this 2017 Act**, may make an irrevocable election to participate in the  
22 Optional Retirement Plan within six months after being employed. An  
23 election under this subsection is effective on the first day of the month fol-  
24 lowing the completion of the requirements of subsection (2) of this section.

25 “(4) An administrative or academic employee **who is eligible to remain**  
26 **or become a member of the Public Employees Retirement System and**  
27 who does not elect to participate in the Optional Retirement Plan:

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

30 “(b) Continues to be assisted by the governing board under ORS 243.920

1 if the employee is being so assisted.

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

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

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

29 “(c) An administrative or academic employee who elects to participate in  
30 the Optional Retirement Plan, and who is not a vested member of the pension



1 program of the Oregon Public Service Retirement Plan as described in ORS  
2 238A.115 on the date that the election becomes effective, shall be considered  
3 to be a terminated member of the pension program by the Public Employees  
4 Retirement Board as of the effective date of the election.

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

23 “(e) An administrative or academic employee who elects to participate in  
24 the Optional Retirement Plan, and who is a vested member of the individual  
25 account program of the Oregon Public Service Retirement Plan as described  
26 in ORS 238A.320 on the date that the election becomes effective, shall be  
27 considered an inactive member of the individual account program by the  
28 Public Employees Retirement Board as of the effective date of the election.  
29 An employee who is subject to the provisions of this paragraph retains all  
30 the rights, privileges and options of an inactive member of the individual

1 account program. An administrative or academic employee who elects to  
2 participate in the Optional Retirement Plan, and who is a member of the  
3 individual account program of the Oregon Public Service Retirement Plan,  
4 may make a written request to the Public Employees Retirement Board that  
5 all amounts in the member's employee account, rollover account and em-  
6 ployer account, to the extent the member is vested in those accounts under  
7 ORS 238A.320, be transferred to the Optional Retirement Plan. The request  
8 must be made at the time the member elects to participate in the Optional  
9 Retirement Plan. Upon receiving the request, the Public Employees Retire-  
10 ment Board shall transfer the amounts directly to the Optional Retirement  
11 Plan, and shall terminate the membership of the employee in the individual  
12 account program upon making the transfer.

13 “(f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the  
14 Public Employees Retirement Board may not treat any employee as an inac-  
15 tive member under the provisions of this subsection for the purpose of re-  
16 ceiving any benefit under ORS chapter 238 or 238A that requires that the  
17 employee be separated from all service with participating public employers  
18 and with employers who are treated as part of a participating public  
19 employer's controlled group under the federal laws and rules governing the  
20 status of the Public Employees Retirement System and the Public Employees  
21 Retirement Fund as a qualified governmental retirement plan and trust.

22 “(7) Any amounts transferred from the Public Employees Retirement Fund  
23 under subsection (6) of this section shall be transferred directly to the Op-  
24 tional Retirement Plan by the Public Employees Retirement Board and may  
25 not be made available to the employee.

26 “(8) An employee participating in the Optional Retirement Plan who was  
27 hired before July 1, 2014, shall contribute monthly an amount equal to the  
28 percentage of the employee's salary that the employee would otherwise have  
29 contributed as an employee contribution to the Public Employees Retirement  
30 System if the employee had not elected to participate in the Optional Re-

1   tirement Plan.

2       “(9) For an employee participating in the Optional Retirement Plan who  
3   was hired before July 1, 2014, the governing board shall contribute monthly  
4   to the Optional Retirement Plan the percentage of salary of the employee  
5   equal to the percentage of salary that would otherwise have been contributed  
6   as an employer contribution on behalf of the employee to the Public Em-  
7   ployees Retirement System, before any offset under ORS 238.229 (2), if the  
8   employee had not elected to participate in the Optional Retirement Plan.

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

12       “(a) Eight percent of the employee’s salary; and

13       “(b) A percentage of the employee’s salary equal to the percentage of  
14   salary contributed by the employee to the public university’s Tax-Deferred  
15   Investment 403(b) Plan under ORS 243.820, up to four percent of the  
16   employee’s salary in each pay period.

17       **“(11)(a) Unless otherwise prohibited by law, a person employed in a  
18   position classified as a post-doctoral scholar position under section 1  
19   of this 2017 Act is an academic employee under subsection (1) of this  
20   section and becomes a participant in the Optional Retirement Plan  
21   when the person participates in the public university’s Tax-Deferred  
22   Investment 403(b) Plan under ORS 243.820.**

23       **“(b) Participation in the Optional Retirement Plan under this sub-  
24   section becomes effective on the first day of the month following the  
25   later of:**

26       **“(A) Enrollment in the public university’s Tax-Deferred Investment  
27   403(b) Plan under ORS 243.820; or**

28       **“(B) Completion of:**

29       **“(i) Six hundred hours of employment, or the equivalent as deter-  
30   mined by the governing board; and**

1       “(ii) Six months of employment that is not interrupted by more  
2 than 30 consecutive working days.

3       “(c) For a post-doctoral scholar participating in the Optional Re-  
4 tirement Plan, the governing board shall contribute monthly to the  
5 Optional Retirement Plan a percentage of the post-doctoral scholar’s  
6 salary equal to the percentage of salary contributed by the post-  
7 doctoral scholar to the public university’s Tax-Deferred Investment  
8 403(b) Plan under ORS 243.820, up to four percent of the post-doctoral  
9 scholar’s salary in each pay period.

10       “(d) A post-doctoral scholar is an academic employee who elects to  
11 participate in the Optional Retirement Plan for purposes of subsection  
12 (6) of this section.

13       “(e) Subsections (8) to (10) of this section do not apply to a post-  
14 doctoral scholar participating in the Optional Retirement Plan.

15       “[(11)] (12) Both employee and employer contributions to an Optional  
16 Retirement Plan shall be remitted directly to the companies that have issued  
17 annuity contracts to the participating employees or directly to the mutual  
18 funds.

19       “[(12)] (13) Benefits under the Optional Retirement Plan are payable to  
20 employees who elect to participate in the plan and their beneficiaries by the  
21 selected annuity provider or mutual fund in accordance with the terms of the  
22 annuity contracts or the terms of the contract with the mutual fund. Em-  
23 ployees electing to participate in the Optional Retirement Plan agree that  
24 benefits payable under the plan are not obligations of the State of Oregon  
25 or of the Public Employees Retirement System.

26       “**SECTION 5. The amendments to ORS 238.005, 238A.005 and 243.800**  
27 **by sections 2 to 4 of this 2017 Act apply only to a person who com-**  
28 **mences employment in a position classified as a post-doctoral scholar**  
29 **position under section 1 of this 2017 Act on or after the effective date**  
30 **of this 2017 Act.”.**

