

Requested by Senator KNOPP

**PROPOSED AMENDMENTS TO
SENATE BILL 560**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and delete lines 3 and 4 and insert “238.005, 238.105, 238.115, 238.265,
3 238.300, 238.350, 238.435, 238A.110, 238A.120, 238A.125, 238A.130, 238A.320,
4 238A.330, 238A.335, 238A.340, 238A.375, 238A.410, 243.800 and 341.551; and de-
5 claring an emergency.”.

6 Delete lines 6 through 26 and delete pages 2 through 16 and insert:

7

8

“MULTIPLICATION FACTOR

9

10 **“SECTION 1.** ORS 238.300 is amended to read:

11 “238.300. Upon retiring from service at normal retirement age or there-
12 after, a member of the system shall receive a service retirement allowance
13 which shall consist of the following annuity and pensions:

14 “(1) A refund annuity which shall be the actuarial equivalent of accu-
15 mulated contributions, if any, by the member and interest thereon credited
16 at the time of retirement, which annuity shall provide an allowance payable
17 during the life of the member and at death a lump sum equal in amount to
18 the difference between accumulated contributions at the time of retirement
19 and the sum of the annuity payments actually made to the member during
20 life shall be paid to such person, if any, as the member nominates by written
21 designation duly acknowledged and filed with the board or shall otherwise

1 be paid according to the provisions of this chapter for disposal of an amount
2 credited to the member account of a member at the time of death in the event
3 the member designates no beneficiary to receive the amount or no such
4 beneficiary is able to receive the amount. If death of the member occurs be-
5 fore the first payment is due, the member account of the member shall be
6 treated as though death had occurred before retirement.

7 “(2)(a) A life pension (nonrefund) for current service provided by the
8 contributions of employers, which pension, subject to paragraph (b) of this
9 subsection, shall be an amount which, when added to the sum of the annuity,
10 if any, under subsection (1) of this section and the annuity, if any, provided
11 on the same basis and payable from the Variable Annuity Account, both
12 annuities considered on a refund basis, results in a total of:

13 “(A) For service as a police officer or firefighter[,]:

14 “(i) Two percent of final average salary multiplied by the number of years
15 of membership in the system as a police officer or firefighter before the ef-
16 fective date of retirement[.] **and before January 1, 2018; and**

17 “(ii) **___ percent of final average salary multiplied by the number**
18 **of years of membership in the system as a police officer or firefighter**
19 **before the effective date of retirement and on and after January 1,**
20 **2018.**

21 “(B) For service as other than a police officer or firefighter, including
22 service as a member of the Legislative Assembly[,]:

23 “(i) 1.67 percent of final average salary multiplied by the number of years
24 of membership in the system as other than a police officer or firefighter be-
25 fore the effective date of retirement[.] **and before January 1, 2018; and**

26 “(ii) **___ percent of final average salary multiplied by the number**
27 **of years of membership in the system as other than a police officer**
28 **or firefighter before the effective date of retirement and on and after**
29 **January 1, 2018.**

30 “(b) A pension under this subsection shall be at least:

1 “(A) For a member who first establishes membership in the system before
2 July 1, 2003, the actuarial equivalent of the annuity provided by the accu-
3 mulated contributions of the member. A person establishes membership in
4 the system before July 1, 2003, for the purposes of this subparagraph if:

5 “(i) The person is a member of the system, or a judge member of the
6 system, on the day immediately before July 1, 2003; or

7 “(ii) The person performed any period of service for a participating public
8 employer before July 1, 2003, that is credited to the six-month period of em-
9 ployment required of an employee under ORS 238.015 before an employee may
10 become a member of the system.

11 “(B) For a member who made contributions before August 21, 1981, the
12 equivalent of a pension computed pursuant to this subsection as it existed
13 immediately before that date.

14 “(c) As used in this subsection, ‘number of years of membership’ means
15 the number of full years of creditable service plus any remaining fraction
16 of a year of creditable service. Except as otherwise provided in this para-
17 graph, in determining a remaining fraction a full month shall be considered
18 as one-twelfth of a year and a major fraction of a month shall be considered
19 as a full month. Membership of a school district employee, an employee of
20 an institution of higher education engaged in teaching or other school ac-
21 tivity or an employee of the Department of Human Services, the Oregon
22 Youth Authority, the Department of Corrections or the State Board of Edu-
23 cation engaged in teaching or other school activity at an institution super-
24 vised by the authority, board or department, for all portions of a school year
25 in a calendar year in which the district school, institution of higher educa-
26 tion or school activity at an institution so supervised in which the member
27 is employed is normally in session shall be considered as a full one-half year
28 of membership. The number of years of membership of a member who re-
29 ceived a refund of contributions as provided in ORS 237.976 (2) is limited to
30 the number of years after the day before the date on which the refund was

1 received. The number of years of membership of a member who is separated,
2 for any reason other than death or disability, from all service entitling the
3 member to membership in the system, who withdraws the amount credited
4 to the member account of the member in the fund during absence from such
5 service and who thereafter reenters the service of an employer participating
6 in the system but does not repay the amount so withdrawn as provided in
7 this chapter, is limited to the number of years after the day before the date
8 of so reentering.

9 “(3) An additional life pension (nonrefund) for prior service credit, in-
10 cluding military service, credited to the member at the time of first becoming
11 a member of the system, as elsewhere provided in this chapter, which pension
12 shall be provided by the contributions of the employer.

13 **“SECTION 2.** ORS 238A.125, as amended by section 3, chapter 33, Oregon
14 Laws 2016, is amended to read:

15 “238A.125. (1) Upon retiring at normal retirement age, a vested pension
16 program member shall be paid an annual pension for the life of the member
17 as follows:

18 “(a) For service as a police officer or firefighter, **a total of:**

19 “(A) 1.8 percent of final average salary multiplied by the number of years
20 of retirement credit attributable to service as a police officer or
21 firefighter[.] **before January 1, 2018; and**

22 “(B) ___ percent of final average salary multiplied by the number
23 of years of retirement credit attributable to service as a police officer
24 or firefighter on and after January 1, 2018.

25 “(b) For service as other than a police officer or firefighter, **a total of:**

26 “(A) 1.5 percent of final average salary multiplied by the number of years
27 of retirement credit attributable to service as other than a police officer or
28 firefighter[.] **before January 1, 2018; and**

29 “(B) ___ percent of final average salary multiplied by the number
30 of years of retirement credit attributable to service as other than a

1 **police officer or firefighter on and after January 1, 2018.**

2 “(2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the an-
3 nual benefit payable to a member under the pension program and under any
4 other tax-qualified defined benefit plan maintained by the participating pub-
5 lic employer may not exceed the applicable limitations set forth in 26 U.S.C.
6 415(b), as in effect on December 31, 2015. The Public Employees Retirement
7 Board shall adopt rules for the administration of this limitation, including
8 adjustments in the annual dollar limitation to reflect cost-of-living adjust-
9 ments authorized by the Internal Revenue Service.

10 “(3) The board shall make no actuarial adjustment in a member’s pension
11 calculated under this section by reason of the member’s retirement after
12 normal retirement age.

13 **“SECTION 3. The amendments to ORS 238.300 and 238A.125 by**
14 **sections 1 and 2 of this 2017 Act apply only to members of the Public**
15 **Employees Retirement System whose effective date of retirement is**
16 **on or after January 1, 2018.**

17
18 **“FINAL AVERAGE SALARY**

19
20 **“SECTION 4.** ORS 238.005 is amended to read:

21 “238.005. For purposes of this chapter:

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

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

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

28 “(4) ‘Calendar year’ means 12 calendar months commencing on January
29 1 and ending on December 31 following.

30 “(5) ‘Continuous service’ means service not interrupted for more than five

1 years, except that such continuous service shall be computed without regard
2 to interruptions in the case of:

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

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

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

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

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

23 “(a) Persons engaged as independent contractors.

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

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

30 “(d) Persons employed and paid from federal funds received under a fed-

1 eral program intended primarily to alleviate unemployment. However, any
2 such person shall be considered an ‘employee’ if not otherwise excluded by
3 paragraphs (a) to (c) of this subsection and the public employer elects to
4 have the person so considered by an irrevocable written notice to the board.

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

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

10 “(a) The average salary per calendar year paid by one or more partic-
11 ipating public employers to an employee who is an active member of the
12 system in three of the calendar years of membership before the effective date
13 of retirement of the employee **and before January 1, 2018**, in which three
14 years the employee was paid the highest salary. The three calendar years in
15 which the employee was paid the largest total salary may include calendar
16 years in which the employee was employed for less than a full calendar year.
17 If the number of calendar years of active membership before the effective
18 date of retirement of the employee is three or fewer, the final average salary
19 for the employee is the average salary per calendar year paid by one or more
20 participating public employers to the employee in all of those years, without
21 regard to whether the employee was employed for the full calendar year.

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

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

5 “[*b*] (c) One-third of the total salary paid by a participating public em-
6 ployer to an employee who is an active member of the system in the last 36
7 calendar months of active membership before the effective date of retirement
8 of the employee **and before January 1, 2018.**

9 **“(d) One-fifth of the total salary paid by a participating public em-**
10 **ployer to an employee who is an active member of the system in the**
11 **last 60 calendar months of active membership.**

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

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

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

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

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

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

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

28 “(15) ‘Member’ means a person who has established membership in the
29 system and whose membership has not been terminated as described in ORS
30 238.095. ‘Member’ includes active, inactive and retired members.

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

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

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

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

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

14 “(19) ‘Police officer’ includes:

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

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

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

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

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

1 “(f) Police officers who are commissioned by a university under ORS
2 352.121 or 353.125 and who are classified as police officers by the university.

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

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

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

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

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

21 “(L) Investigators of the Criminal Justice Division of the Department of
22 Justice.

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

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

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

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

1 tor of the Department of Corrections as being eligible for police officer sta-
2 tus.

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

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

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

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

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

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

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

28 “(21) ‘Public employer’ means the state, one of its agencies, any city,
29 county, or municipal or public corporation, any political subdivision of the
30 state or any instrumentality thereof, or an agency created by one or more

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

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

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

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

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

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

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

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

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

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

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

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

30 “(A) Travel or any other expenses incidental to employer’s business which

1 is reimbursed by the employer;

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

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

6 “(D) Any lump sum payment for **accumulated unused vacation leave**
7 **or other unused paid leave accrued on or after January 1, 2018, or for**
8 accumulated unused sick leave;

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

11 “(F) Any retirement incentive, retirement severance pay, retirement bonus
12 or retirement gratuitous payment;

13 “(G) Payments for periods of leave of absence after the date the employer
14 and employee have agreed that no future services qualifying pursuant to ORS
15 238.015 (3) will be performed, except for sick leave and vacation **accrued**
16 **before January 1, 2018;**

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

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

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

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

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

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

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

3 **“SECTION 5.** ORS 238.350 is amended to read:

4 “238.350. (1)(a) Upon the request by a public employer that its employees
5 be compensated for accumulated unused sick leave with pay in the form of
6 increased retirement benefits upon service or disability retirement, the board
7 shall establish a procedure for adding to the gross amount of salary used in
8 determining final average salary the monetary value of one-half of the ac-
9 cumulated unused sick leave with pay of each retiring employee of the re-
10 questing public employer and shall establish benefits of the retiring employee
11 on the basis of a final average salary reflecting that addition.

12 “(b) For employees of a common school district, a union high school dis-
13 trict, an education service district or an institution of higher education en-
14 gaged in teaching or other school activity, or employees of the school
15 operated under ORS 346.010 engaged in teaching or other school activity,
16 who are employed under contract for a period of less than 12 consecutive
17 months and who are entitled to sick leave with pay of less than 96 hours for
18 a year, each hour of accumulated unused sick leave with pay shall be valued
19 on the basis of the actual number of contract hours of employment during
20 the last year of contributing membership of an employee before retiring and
21 the salary of the employee during the same period. This paragraph does not
22 apply to any employee who is employed under contract for 12 consecutive
23 months in [*any of the three or less years*] **the period or periods** used in de-
24 termining the final average salary of the employee.

25 “(c) For the purpose of this subsection, accumulated unused sick leave
26 with pay includes unused sick leave with pay accumulated by an active
27 member of the system while in the service of any public employer partic-
28 ipating in the system that has the request described in paragraph (a) of this
29 subsection in effect at the time of the member’s separation from the service
30 of the employer, whether that employer is or is not the employer of the

1 member at the time of the member's retirement.

2 “(d) The board shall establish rules requiring all public employers par-
3 ticipating in the system to transmit to the board reports of unused sick leave
4 with pay accumulated by their employees who are members of the system and
5 to provide timely notification to each of those employees of unused sick leave
6 with pay accumulated by the employee and reported to the board.

7 “(2) Accumulated unused sick leave with pay may be considered for the
8 purpose of subsection (1) of this section only in accordance with the follow-
9 ing requirements:

10 “(a) Sick leave not credited at the rate actually provided by the public
11 employer may not be considered. The amount of sick leave exceeding an
12 amount credited at the lowest rate in effect for any employee of the public
13 employer who is normally entitled to sick leave, and in any event exceeding
14 an amount credited at a rate of eight hours for each full month worked, may
15 not be considered.

16 “(b) Sick leave credited for periods when an employee was absent from
17 employment on sabbatical leave, educational leave or any leave without pay
18 may not be considered.

19 “(c) Any period during which an employee was absent from employment
20 for illness or injury that was charged against sick leave not qualified for
21 consideration shall be deducted from sick leave qualified for consideration.

22 “(d) Sick leave for any period for which the public employer provides no
23 sick leave with pay for its employees may not be considered.

24 “(e) Sick leave accumulated on and after July 1, 1973, may be considered
25 only to the extent it is supported by records of accumulation and use pur-
26 suant to a plan adopted formally by the public employer.

27 “(f) Accumulated unused sick leave for periods before July 1, 1973, may
28 be considered as follows:

29 “(A) If any department, bureau or other organizational unit of a public
30 employer maintained formal records of accumulation and use even though

1 the public employer did not require that those records be maintained, the
2 accumulated unused sick leave shall be considered according to those re-
3 cords.

4 “(B) Where the public employer provided sick leave before July 1, 1973,
5 but formal records of accumulation and use were not required or if required,
6 are unavailable or incomplete, or the sick leave was subject to administra-
7 tive limitations on total accumulation or transfer between public employers,
8 accumulated unused sick leave for periods before July 1, 1973, may be con-
9 sidered as equal to 2.675 hours for each full month worked or an amount per
10 month equal to the average monthly accumulation by an employee during the
11 period beginning July 1, 1973, and ending at the time of retirement, which-
12 ever amount is greater, but reduced by the amount of any accumulated un-
13 used sick leave credited to the employee on July 1, 1973.

14 “(g) The written certification of a member or former member of the Leg-
15 islative Assembly shall constitute a formal record of accumulation and use
16 in determining the amount of accumulated unused sick leave of an employee
17 of the Legislative Assembly, either of its houses or any of its committees or
18 officers for periods of employment before July 1, 1981. Sick leave accumu-
19 lated on and after July 1, 1981, by employees of the Legislative Assembly,
20 either of its houses or any of its committees or officers may be considered
21 only to the extent it is supported by records of accumulation and use main-
22 tained by the Legislative Administration Committee, or any statutory,
23 standing, special or interim committee of the Legislative Assembly or either
24 house thereof, or any constitutional or statutory office of the Legislative
25 Assembly or either house thereof, pursuant to a plan adopted formally by the
26 committee or officer.

27 “(h) **Accumulated unused sick leave accrued on or after January 1,**
28 **2018, may not be considered.**

29 “(3)(a) As used in this subsection, ‘legislative employee’ means any person
30 employed by the Legislative Assembly, either of its houses or any of its

1 committees or officers, but does not include a regular employee of a statutory
2 committee or statutory office of the Legislative Assembly described in ORS
3 173.005 (1).

4 “(b) Upon the request of a retiring legislative employee who is a member
5 of the system, and the request of the public employer of the legislative em-
6 ployee, that the legislative employee be compensated for accumulated unused
7 vacation with pay for periods of legislative employment in the form of in-
8 creased retirement benefits upon service or disability retirement, the board
9 shall add to the gross amount of salary used in determining final average
10 salary of the legislative employee the monetary value of one-half of the ac-
11 cumulated unused vacation with pay of the legislative employee and shall
12 establish the benefits of the legislative employee on the basis of a final av-
13 erage salary reflecting that addition.

14 “(c) Accumulated unused vacation with pay may be considered for the
15 purposes of paragraph (b) of this subsection only in accordance with the
16 following requirements:

17 “(A) Vacation not credited at the rate actually provided by the public
18 employer may not be considered.

19 “(B) Amounts of vacation exceeding amounts creditable to employees in
20 the classified service of the state service pursuant to ORS 240.515 (1), and
21 rules adopted pursuant thereto, in effect on June 30, 1981, shall not be con-
22 sidered.

23 “(C) Vacation accumulated before, on and after July 1, 1981, may be con-
24 sidered only to the extent it is supported by records of accumulation and use
25 pursuant to a plan adopted formally by the public employer. However, the
26 written certification of a member or former member of the Legislative As-
27 sembly shall constitute a formal record of accumulation and use in deter-
28 mining the amount of accumulated unused vacation of a legislative employee
29 for periods of legislative employment before July 1, 1981.

30 “(D) **Vacation accumulated on or after January 1, 2018, may not be**

1 **considered.**

2 “(4) Employers with plans providing payments on account of sickness in
3 lieu of sick leave with pay may request the board to consider the monetary
4 value of accumulated unused payments on account of sickness as if such
5 payments were an equivalent amount of accumulated unused sick leave with
6 pay under the same terms and conditions specified in subsections (1) and (2)
7 of this section.

8 **“SECTION 6.** ORS 238.435 is amended to read:

9 “238.435. (1) Notwithstanding the definition of ‘salary’ or ‘other advan-
10 tages’ provided by ORS 238.005, for the purpose of calculating the retirement
11 allowance of a person who establishes membership in the system on or after
12 January 1, 1996, as described in ORS 238.430, the Public Employees Retire-
13 ment Board shall not include any lump sum payment for accrued vacation
14 pay made to the member during [*the last 36 calendar months of membership*
15 *before the effective date of retirement of the member, or during any period of*
16 *time taken into account for purposes of determining the three years in which*
17 *the member was paid the highest salary for the purposes of]* **any period of**
18 **time taken into account in** determining the member’s final average salary.

19 “(2) Notwithstanding the definition of ‘final average salary’ provided by
20 ORS 238.005, for the purpose of calculating the retirement allowance of a
21 person who establishes membership in the system on or after January 1, 1996,
22 as described in ORS 238.430, and who is not employed by a local government
23 as defined in ORS 174.116, the term ‘final average salary’ means whichever
24 of the following is greater:

25 “(a) The average salary per calendar year paid to a public employee who
26 is an active member of the system in three of the calendar years of mem-
27 bership before the effective date of retirement of the employee **and before**
28 **January 1, 2018**, in which three years the employee was paid the highest
29 salary. The three calendar years in which the employee was paid the largest
30 total salary may include calendar years in which the employee was employed

1 for less than a full calendar year. If the number of calendar years of active
2 membership before the effective date of retirement of the employee is three
3 or less, the final average salary for the employee is the average salary per
4 calendar year paid to the public employee in all of those years, without re-
5 gard to whether the employee was employed for full calendar years.

6 **“(b) The average salary per calendar year paid to a public employee**
7 **who is an active member of the system in five of the calendar years**
8 **of membership before the effective date of retirement of the employee,**
9 **in which five years the employee was paid the highest salary. The five**
10 **calendar years in which the employee was paid the largest total salary**
11 **may include calendar years in which the employee was employed for**
12 **less than a full calendar year. If the number of calendar years of ac-**
13 **tive membership before the effective date of retirement of the em-**
14 **ployee is five or less, the final average salary for the employee is the**
15 **average salary per calendar year paid to the public employee in all of**
16 **those years, without regard to whether the employee was employed for**
17 **full calendar years.**

18 **“[(b)] (c) One-third of the total salary paid to a public employee who is**
19 **an active member of the system in the last 36 calendar months of membership**
20 **before the effective date of retirement of the employee and before January**
21 **1, 2018.**

22 **“(d) One-fifth of the total salary paid to a public employee who is**
23 **an active member of the system in the last 60 calendar months of**
24 **membership before the effective date of retirement of the employee.**

25 **“(3) For the purposes of calculating the final average salary of a member**
26 **under subsection (2) of this section, the Public Employees Retirement Board**
27 **shall:**

28 **“(a) Include any salary paid in or for the calendar month of separation**
29 **from employment;**

30 **“(b) Exclude any salary for any pay period before the first full pay period**

1 that is included in the three calendar years of membership under subsection
2 (2)(a) of this section **or in the five calendar years of membership under**
3 **subsection (2)(b) of this section** if the three **or five** calendar years were
4 consecutive; and

5 “(c) Exclude any salary for any pay period before the first full pay period
6 that is included in the last 36 calendar months of membership under sub-
7 section [(2)(b)] **(2)(c)** of this section **or in the last 60 calendar months of**
8 **membership under subsection (2)(d) of this section.**

9 “(4) Notwithstanding the definition of ‘final average salary’ provided by
10 ORS 238.005, for the purpose of calculating the retirement allowance of a
11 person who establishes membership in the system on or after January 1, 1996,
12 as described in ORS 238.430, and who is employed by a local government as
13 defined in ORS 174.116, the term ‘final average salary’ means whichever of
14 the following is greater:

15 “(a) The average salary per calendar year earned by a public employee
16 who is an active member of the system in three of the calendar years of
17 membership before the effective date of retirement of the employee **and be-**
18 **fore January 1, 2018**, in which three years the employee earned the highest
19 salary. The three calendar years in which the employee earned the largest
20 total salary may include calendar years in which the employee was employed
21 for less than a full calendar year. If the number of calendar years of active
22 membership before the effective date of retirement of the employee is three
23 or less, the final average salary for the employee is the average salary per
24 calendar year earned by the public employee in all of those years, without
25 regard to whether the employee was employed for full calendar years.

26 “(b) **The average salary per calendar year earned by a public em-**
27 **ployee who is an active member of the system in five of the calendar**
28 **years of membership before the effective date of retirement of the**
29 **employee, in which five years the employee earned the highest salary.**
30 **The five calendar years in which the employee earned the largest total**

1 salary may include calendar years in which the employee was em-
2 ployed for less than a full calendar year. If the number of calendar
3 years of active membership before the effective date of retirement of
4 the employee is five or less, the final average salary for the employee
5 is the average salary per calendar year earned by the public employee
6 in all of those years, without regard to whether the employee was
7 employed for full calendar years.

8 “[b)] (c) One-third of the total salary earned by a public employee who
9 is an active member of the system in the last 36 calendar months of mem-
10 bership before the effective date of retirement of the employee **and before**
11 **January 1, 2018.**

12 “(d) **One-fifth of the total salary earned by a public employee who**
13 **is an active member of the system in the last 60 calendar months of**
14 **membership before the effective date of retirement of the employee.**

15 “(5) The normal retirement age is 60 years of age for a member who es-
16 tablishes membership in the system on or after January 1, 1996, as described
17 in ORS 238.430, and who retires as other than a police officer or firefighter.

18 “(6) ORS 238.255 does not apply to any person who establishes membership
19 in the Public Employees Retirement System on or after January 1, 1996, as
20 described in ORS 238.430.

21 “(7) Except as provided in this section, all provisions of this chapter are
22 applicable to persons who establish membership in the system on or after
23 January 1, 1996, as described in ORS 238.430.

24 “**SECTION 7.** ORS 238A.130 is amended to read:

25 “238A.130. (1) Except as provided in subsection (3) of this section, for
26 purposes of the computation of pension program benefits under ORS
27 238A.125, ‘final average salary’ means whichever of the following is greater:

28 “(a) The average salary per calendar year paid to an active member in the
29 three consecutive calendar years of membership **before January 1, 2018,**
30 that produce the highest average salary, including calendar years in which

1 the member was employed for less than a full calendar year. If the number
2 of consecutive calendar years of active membership before the effective date
3 of retirement of the member is three or less, the final average salary for the
4 member is the average salary per calendar year paid to the member in all
5 of those years, without regard to whether the member was employed for full
6 calendar years.

7 **“(b) The average salary per calendar year paid to an active member**
8 **in the five consecutive calendar years of membership that produce the**
9 **highest average salary, including calendar years in which the member**
10 **was employed for less than a full calendar year. If the number of**
11 **consecutive calendar years of active membership before the effective**
12 **date of retirement of the member is five or less, the final average**
13 **salary for the member is the average salary per calendar year paid to**
14 **the member in all of those years, without regard to whether the**
15 **member was employed for full calendar years.**

16 **“[(b)] (c) One-third of the total salary paid to an active member in the**
17 **last 36 calendar months of membership before the effective date of retirement**
18 **of the member and before January 1, 2018.**

19 **“(d) One-fifth of the total salary paid to an active member in the**
20 **last 60 calendar months of membership before the effective date of**
21 **retirement of the member.**

22 **“(2) For the purposes of calculating the final average salary of a member**
23 **under subsection (1) of this section, the Public Employees Retirement Board**
24 **shall:**

25 **“(a) Include any salary paid in or for the calendar month of separation**
26 **from employment;**

27 **“(b) Exclude any salary for any pay period before the first full pay period**
28 **that is included in the three consecutive calendar years of membership under**
29 **subsection (1)(a) of this section or in the five consecutive calendar years**
30 **of membership under subsection (1)(b) of this section; and**

1 “(c) Exclude any salary for any pay period before the first full pay period
2 that is included in the last 36 calendar months of membership under sub-
3 section [(1)(b)] **(1)(c)** of this section **or in the last 60 calendar months of**
4 **membership under subsection (1)(d) of this section.**

5 “(3) For purposes of the computation of pension program benefits under
6 ORS 238A.125 of a person employed by a local government as defined in ORS
7 174.116, ‘final average salary’ means whichever of the following is greater:

8 “(a) The average salary per calendar year earned by an active member in
9 the three consecutive calendar years of membership **before January 1, 2018,**
10 that produce the highest average salary, including calendar years in which
11 the member was employed for less than a full calendar year. If the number
12 of consecutive calendar years of active membership before the effective date
13 of retirement of the member is three or less, the final average salary for the
14 member is the average salary per calendar year earned by the member in all
15 of those years, without regard to whether the member was employed for full
16 calendar years.

17 “(b) **The average salary per calendar year earned by an active**
18 **member in the five consecutive calendar years of membership that**
19 **produce the highest average salary, including calendar years in which**
20 **the member was employed for less than a full calendar year. If the**
21 **number of consecutive calendar years of active membership before the**
22 **effective date of retirement of the member is five or less, the final**
23 **average salary for the member is the average salary per calendar year**
24 **earned by the member in all of those years, without regard to whether**
25 **the member was employed for full calendar years.**

26 “[b)] (c) One-third of the total salary earned by an active member in the
27 last 36 calendar months of membership before the effective date of retirement
28 of the member **and before January 1, 2018.**

29 “(d) **One-fifth of the total salary earned by an active member in the**
30 **last 60 calendar months of membership before the effective date of**

1 **retirement of the member.**

2 “(4) For the purposes of calculating the final average salary of a member
3 under this section, the salary of the member does not include:

4 “(a) Any amounts attributable to hours of overtime that exceed the aver-
5 age number of hours of overtime for the same class of employees as estab-
6 lished by rule of the Public Employees Retirement Board. The Oregon
7 Department of Administrative Services shall establish by rule more than one
8 overtime average for a class of state employees based on the geographic
9 placement of the employees.

10 “(b) Any increases in salary during the last [36] **60** calendar months of
11 membership before the effective date of retirement of the member that:

12 “(A) Are made by an employer to pay for insurance coverage previously
13 paid for by the employer; and

14 “(B) Are not offered to all employees in the same class of employees as
15 established by rule of the board under paragraph (a) of this subsection.

16 **“SECTION 8. The amendments to ORS 238.005, 238.350, 238.435 and**
17 **238A.130 by sections 4 to 7 of this 2017 Act apply only to a member of**
18 **the Public Employees Retirement System whose effective date of re-**
19 **tirement is on or after January 1, 2018.**

20

21 **“ASSUMED INTEREST RATE**

22

23 **“SECTION 9. Section 10 of this 2017 Act is added to and made a part**
24 **of ORS chapter 238.**

25 **“SECTION 10. For purposes of calculating the actuarial equivalent**
26 **of the annuity provided by the accumulated contributions of the**
27 **member under ORS 238.300 (2)(b)(A), the Public Employees Retirement**
28 **Board shall use an assumed interest rate that is the lesser of the as-**
29 **sumed interest rate for the system determined by the board or the**
30 **current rate, at the time of adoption, for valuing annuity benefits as**

1 **published from time to time by the federal Pension Benefit Guaranty**
2 **Corporation.**

3 **“SECTION 11. Section 10 of this 2017 Act applies only to members**
4 **of the Public Employees Retirement System whose effective date of**
5 **retirement is on or after the effective date of this 2017 Act.**

6
7 **“EMPLOYEE CONTRIBUTIONS**

8
9 **“SECTION 12. ORS 238A.330 is amended to read:**

10 **“238A.330. (1) A member of the individual account program must make**
11 **employee contributions to the individual account program of:**

12 **“(a) Six percent of the member’s salary[.], which the Public Employees**
13 **Retirement Board shall credit to the employee account established for**
14 **the member under ORS 238A.350 (2) and to the member pension con-**
15 **tribution account established for the member under section 16 of this**
16 **2017 Act, as directed by the member under section 17 of this 2017 Act;**
17 **and**

18 **“(b) The percentage of the member’s salary set by the board under**
19 **section 17 of this 2017 Act, which the board shall credit to the member**
20 **pension contribution account established for the member under sec-**
21 **tion 16 of this 2017 Act.**

22 **“[(2) *Employee contributions made by a member of the individual account***
23 ***program under this section shall be credited by the board to the employee ac-***
24 ***count established for the member under ORS 238A.350 (2).]***

25 **“[(3)] (2) A new member of the individual account program shall first**
26 **make contributions under this section for those wages that are attributable**
27 **to services performed by the employee during the first full pay period fol-**
28 **lowing the six-month probationary period required under ORS 238A.300,**
29 **without regard to when those wages are considered earned for other purposes**
30 **under this chapter.**

1 **SECTION 13.** ORS 238A.335 is amended to read:

2 “238A.335. (1) A participating public employer may agree, by a written
3 employment policy or by a collective bargaining agreement, to pay the em-
4 ployee contribution required under ORS 238A.330 (1)(a). The policy or
5 agreement need not include all members of the individual account program
6 employed by the employer.

7 “(2) An agreement under this section to pay the required employee con-
8 tribution may provide that:

9 “(a) Employee compensation be reduced to generate the funds needed to
10 make the employee contributions; or

11 “(b) Additional amounts be paid by the employer for the purpose of mak-
12 ing the employee contributions, and employee compensation not be reduced
13 for the purpose of generating the funds needed to make the employee con-
14 tributions.

15 “(3) A participating public employer must give written notice to the
16 Public Employees Retirement Board at the time that a written employment
17 policy or collective bargaining agreement described in subsection (1) of this
18 section is adopted or changed. The notice must specifically indicate whether
19 the agreement is as described in subsection (2)(a) or (b) of this section. Any
20 change in the manner in which employee contributions are to be paid applies
21 only to employee contributions made on and after the date the notice is re-
22 ceived by the board.

23 **SECTION 14.** ORS 238A.340 is amended to read:

24 “238A.340. (1) A participating public employer may agree, by a written
25 employment policy or agreement, to make employer contributions for mem-
26 bers of the individual account program employed by the employer. The per-
27 centage of salary paid as employer contributions may not be less than one
28 percent of salary or more than six percent of salary, and must be a whole
29 number. A participating public employer may make an agreement under this
30 section for specific groups of employees employed by the public employer.

1 “(2) If a participating public employer makes employer contributions un-
2 der this section and the member for which the contributions are made fails
3 to vest in the employer account under the provisions of ORS 238A.320, the
4 Public Employees Retirement Board shall apply the contributions in the
5 employer account against other obligations of the employer under the Oregon
6 Public Service Retirement Plan.

7 **“(3) Notwithstanding subsections (1) and (2) of this section, a par-
8 ticipating public employer may not make contributions under this
9 section on or after the later of:**

10 **“(a) January 1, 2018; or**

11 **“(b) The expiration of any collective bargaining agreement in effect
12 on January 1, 2018, under which a participating public employer makes
13 contributions under this section.**

14 **“SECTION 15. Sections 16 and 17 of this 2017 Act are added to and
15 made a part of ORS chapter 238A.**

16 **“SECTION 16. (1) The Public Employees Retirement Board shall
17 establish a member pension contribution account for each active
18 member of the Public Employees Retirement System.**

19 **“(2) Each account established under this section shall be adjusted
20 at least annually in accordance with rules adopted by the board to
21 reflect any net earnings or losses on the amounts in the account. The
22 adjustments described in this subsection shall continue until the
23 amounts in the account are withdrawn or applied against the costs of
24 the pension or other retirement benefits payable to the member or the
25 member’s beneficiary under this chapter or ORS chapter 238.**

26 **“(3)(a) Unless the amounts in an account established under this
27 section are withdrawn under ORS 238A.375, the amounts in the ac-
28 count established under this section shall be applied by the board to
29 pay the costs of the pension or other retirement benefits payable to
30 the member or the member’s beneficiary under this chapter or ORS**

1 chapter 238 that accrue on or after January 1, 2018.

2 “(b) If the amounts in the account established under this section
3 exceed the costs of the pension or other retirement benefits payable
4 to the member or the member’s beneficiary under this chapter or ORS
5 chapter 238 that accrue on or after January 1, 2018, the board shall
6 refund the excess amounts to the member upon retirement.

7 **“SECTION 17. (1) Once every two years, the Public Employees Re-**
8 **tirement Board shall set the percentage of salary that a member is**
9 **required to contribute to the member pension contribution account**
10 **established for the member under section 16 of this 2017 Act. In setting**
11 **the percentage of salary required, the board shall consider the un-**
12 **funded actuarial liability of the system attributable to active members**
13 **of the system as compared to the unfunded actuarial liability of the**
14 **system attributable to active members of the system as of January 1,**
15 **2018.**

16 **“(2)(a) For a member who establishes membership before August**
17 **29, 2003, the employee contribution established under this section must**
18 **be at least __ percent of salary, and may not exceed __ percent of sal-**
19 **ary.**

20 **“(b) For a member who establishes membership on or after August**
21 **29, 2003, the employee contribution established under this section must**
22 **be at least __ percent of salary, and may not exceed __ percent of sal-**
23 **ary.**

24 **“(3) The board shall allow a member to direct that all or part of the**
25 **employee contribution required under ORS 238A.330 (1)(a) be used to**
26 **make the employee contribution required under ORS 238A.330 (1)(b).**
27 **The amount used to make the employee contribution under ORS**
28 **238A.330 (1)(b) must be a percentage of salary, may not be less than**
29 **one percent of salary or more than six percent of salary, and must be**
30 **a whole number.**

1 **“SECTION 18. Sections 16 and 17 of this 2017 Act and the amend-**
2 **ments to ORS 238A.330, 238A.335 and 238A.340 by sections 12 to 14 of**
3 **this 2017 Act become operative on January 1, 2018.**

4 **“SECTION 19.** ORS 238A.320 is amended to read:

5 “238A.320. (1) A member of the individual account program becomes
6 vested in the employee account established for the member under ORS
7 238A.350 (2) on the date the employee account is established.

8 “(2) A member who makes rollover contributions becomes vested in the
9 rollover account established for the member under ORS 238A.350 (4) on the
10 date the rollover account is established.

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

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

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

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

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

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

26 “(4) If on the date that a person becomes an active member the person
27 has already reached the normal retirement age for the person under ORS
28 238A.160, and the employer makes employer contributions for the member
29 under ORS 238A.340, the person is vested in the employer account established
30 under ORS 238A.350 (3) on that date.

1 “(5) If a member of the individual account program who is not vested in
2 the employer account performs fewer than 600 hours of service in each of five
3 consecutive calendar years, hours of service performed before the first cal-
4 endar year of the period of five consecutive calendar years shall be disre-
5 garded for purposes of determining whether the member is vested under
6 subsection (3)(a) of this section.

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

13 **“(7) A member becomes vested in the member pension contribution**
14 **account established for the member under section 16 of this 2017 Act**
15 **on the date the account is established.**

16 **“SECTION 20.** ORS 238A.375 is amended to read:

17 “238A.375. (1) An inactive member of the individual account program may
18 elect to receive a distribution of the amounts in the member’s employee ac-
19 count, rollover account, [and] employer account **and member pension**
20 **contribution account** to the extent the member is vested in those accounts
21 under ORS 238A.320 if the inactive member has separated from all service
22 with participating public employers and with employers who are treated as
23 part of a participating public employer’s controlled group under the federal
24 laws and rules governing the status of the system and the fund as a qualified
25 governmental retirement plan and trust.

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

30 “(3) A member may not make an election under this section for less than

1 all of the member's individual accounts described in ORS 238A.350, **and the**
2 **member's member pension contribution account described in section**
3 **16 of this 2017 Act**, in which the member is vested.

4 “(4) A member who is vested in the pension program established under
5 this chapter and who [*is eligible to withdraw from the pension program under*
6 *ORS 238A.120 may make an election under this section only if the member also*
7 *withdraws from the pension program*] **withdraws the member's accounts**
8 **under this section cancels all membership rights in the Public Em-**
9 **ployees Retirement System.**

10 “(5) A member who has a member account established under ORS chapter
11 238 may make an election under this section only if the member also with-
12 draws that member account in the manner provided by ORS 238.265. A
13 member who has an account established under ORS 238.440 may make an
14 election under this section only if the member also withdraws the account
15 established under ORS 238.440.

16 “[5] (6) If an inactive member receives a distribution under subsection
17 (1) of this section and is subsequently reemployed by a participating public
18 employer, any service performed before the date the member became an in-
19 active member may not be used toward the period of service required for
20 vesting in the employer account under ORS 238A.320.

21 “**SECTION 21.** ORS 238A.410, as amended by section 9, chapter 33,
22 Oregon Laws 2016, is amended to read:

23 “238A.410. (1)(a) If a member of the individual account program dies be-
24 fore retirement, the amounts in the member's employee account, rollover
25 account and employer account, to the extent the member is vested in those
26 accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary
27 or beneficiaries designated by the member for the purposes of this section.

28 “(b) **If a member of the individual account program dies before re-**
29 **tirement, the amounts in the member pension contribution account**
30 **established for the member under section 16 of this 2017 Act shall be**

1 **applied by the Public Employees Retirement Board to pay the costs**
2 **of any benefit payable under ORS 238A.230. If the amounts in the**
3 **member pension contribution account exceed the costs of the benefit**
4 **payable under ORS 238A.230, the excess amounts shall be paid in a**
5 **lump sum to the beneficiary or beneficiaries designated by the member**
6 **for the purposes of this section.**

7 “(2) If a member of the individual account program is married at the time
8 of death, or there exists at the time of death any other person who is con-
9 stitutionally required to be treated in the same manner as a spouse for the
10 purpose of retirement benefits, the spouse or other person shall be the ben-
11 efiary for purposes of the death benefit payable under this section unless
12 the spouse or other person consents to the designation of a different benefi-
13 ciary or beneficiaries before the designation has been made and the consent
14 has not been revoked by the spouse or other person as of the time of the
15 member’s death. Consent and revocation of consent must be in writing, ac-
16 knowledged by a notary public, and submitted to the Public Employees Re-
17 tirement Board in accordance with rules adopted by the board. If the
18 member’s spouse is designated as the member’s beneficiary and the marriage
19 of the member and spouse is subsequently dissolved, the former spouse shall
20 be treated as predeceasing the member for purposes of this section, unless
21 the member expressly designates the former spouse as beneficiary after the
22 effective date of the dissolution or the former spouse is required to be des-
23 ignated as a beneficiary under the provisions of ORS 238.465.

24 “(3) For purposes of this section and ORS 238A.400 (3), if a member fails
25 to designate a beneficiary, or if the person or persons designated do not
26 survive the member, the death benefit provided for in this section shall be
27 paid to the following person or persons, in the following order of priority:

28 “(a) The member’s surviving spouse or other person who is constitu-
29 tionally required to be treated in the same manner as a spouse;

30 “(b) The member’s surviving children, in equal shares; or

1 “(c) The member’s estate.

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

10 **“SECTION 22.** ORS 238A.120 is amended to read:

11 “238A.120. [(1) *A vested inactive member may withdraw from the pension*
12 *program if:*]

13 “[*(a) The actuarial equivalent of the member’s benefit under the pension*
14 *program at the time of withdrawal is \$5,000 or less; and*]

15 “[*(b) The inactive member has separated from all service with participating*
16 *public employers and with employers who are treated as part of a participating*
17 *public employer’s controlled group under the federal laws and rules governing*
18 *the status of the system and the fund as a qualified governmental retirement*
19 *plan and trust.*]

20 “[*(2) Upon withdrawal under this section, the Public Employees Retirement*
21 *Board shall pay the withdrawing member the actuarial equivalent of the*
22 *member’s benefit in a lump sum.*]

23 “[*(3) If a vested inactive member withdraws from the pension program un-*
24 *der this section and is thereafter reemployed by a participating public em-*
25 *ployer:*]

26 **A person who is a vested inactive member who withdraws from**
27 **the individual account program under ORS 238A.375 cancels the**
28 **person’s membership in the Public Employees Retirement System. If**

29 **the person is thereafter reemployed by a participating public employer:**
30 “[*(a)*] (1) The person may reestablish membership in the pension program
only for the purpose of service performed after the person is reemployed; and

1 “[(b)] (2) Any service performed before the withdrawal may not be cred-
2 ited toward the period of service required by ORS 238A.100 or 238A.115 or
3 toward the accrual of retirement credit under ORS 238A.140, 238A.150 or
4 238A.155.

5 “[(4) A member who has an individual account or accounts in the individ-
6 ual account program established under ORS 238A.025 may withdraw from the
7 pension program under this section only if the member also withdraws all in-
8 dividual accounts pursuant to ORS 238A.375. A member who has a member
9 account established under ORS chapter 238 may withdraw from the pension
10 program under this section only if the member also withdraws that member
11 account in the manner provided by ORS 238.265. A member who has an ac-
12 count established under ORS 238.440 may withdraw from the pension program
13 under this section only if the member also withdraws the account established
14 under ORS 238.440.]

15 “[(5) For the purposes of this section, the actuarial equivalent of a member’s
16 benefit does not include any value attributable to adjustments to the benefit
17 under ORS 238A.210.]

18 “**SECTION 23.** ORS 238.105 is amended to read:

19 “238.105. (1) Whenever, within five years after the employee is separated
20 from all service entitling the employee to membership in the **Public Em-**
21 **ployees Retirement** System, an employee who has withdrawn the amount
22 credited to the member account of the member reenters the service of an
23 employer participating in the system, the employee’s rights in the system
24 that were forfeited by the withdrawal shall be restored upon repaying to the
25 **Public Employees Retirement** Board within one year after reentering the
26 service of the employer, the full amount so withdrawn together with the in-
27 terest that would have been accumulated on the sum had the amount not
28 been withdrawn.

29 “(2) Restoration of rights under this section does not affect any forfeiture
30 of rights of a person by reason of:

1 “(a) Withdrawal of an account established under ORS 238.440; **or**

2 “[*(b) Withdrawal from the pension program under ORS 238A.120; or*]

3 “[*(c)*] **(b)** Withdrawal of individual accounts pursuant to ORS 238A.375.

4 **“SECTION 24.** ORS 238.115 is amended to read:

5 “238.115. (1)(a) A member of the **Public Employees Retirement** System
6 who, after separation from all service entitling the employee to membership
7 in the system and withdrawal of the amount credited to the member account
8 of the member, reenters the service of an employer participating in the sys-
9 tem and serves as an active member of the system for 10 years after that
10 reentry, and who has not otherwise obtained restoration of creditable service
11 forfeited by the withdrawal, shall obtain restoration of one full month of
12 creditable service forfeited by the withdrawal for each three full months of
13 service as an active member after that reentry if the member, within 90 days
14 before the effective date of retirement of the member:

15 “(A) Applies in writing to the **Public Employees Retirement** Board for
16 restoration of creditable service; and

17 “(B) Pays to the board in a lump sum for credit to the member account
18 of the member the amount withdrawn and interest on the amount withdrawn
19 compounded annually for each year or portion of a year after the date of the
20 withdrawal and before the effective date of retirement of the member. The
21 interest shall be computed at the annual rate of 7.5 percent.

22 “(b) If a member who obtains restoration of creditable service as provided
23 in this subsection does not obtain restoration of all creditable service for-
24 feited by the withdrawal pursuant to service after reentry, the payment un-
25 der paragraph (a) of this subsection shall be reduced proportionately to
26 reflect the percentage of creditable service restored.

27 “(c) A member who obtains restoration of creditable service as provided
28 in this subsection is not entitled to elect to receive the service retirement
29 benefit described in ORS 238.305 (2) or (3).

30 “(2) A member who forfeited creditable service rendered to a public em-

1 ployer before March 27, 1953, because under ORS 237.976 (2) the employee
2 withdrew contributions of the employee to the Public Employees Retirement
3 System established by chapter 401, Oregon Laws 1945, and who did not obtain
4 restoration of creditable service so forfeited as provided in chapter 857,
5 Oregon Laws 1977, shall, upon retirement, receive restoration of creditable
6 service so forfeited, if the member, before the effective date of retirement of
7 the member:

8 “(a) Applies in writing to the board for the restoration of the creditable
9 service; and

10 “(b) Pays to the board in a lump sum for credit to the member account
11 of the member an amount determined by the board to be equal to the full
12 amount of contributions so withdrawn and the interest that would have ac-
13 cumulated to the regular account of the member had those contributions not
14 been withdrawn.

15 “(3)(a) A member of the Public Employees Retirement System who was a
16 member of an association established pursuant to ORS chapter 239 (1997
17 Edition), but separated from all service entitling the employee to membership
18 in the system of the association and withdrew the amount credited to the
19 member account of the employee in the retirement fund of the association,
20 and who, after that separation, entered the service of an employer in the
21 field of education participating in the Public Employees Retirement System
22 and served as an active member of that system for 10 years after that entry,
23 and who has not otherwise obtained restoration of all creditable service
24 forfeited by the withdrawal, shall obtain creditable service as a member of
25 the Public Employees Retirement System equal to all creditable service for-
26 feited by the withdrawal if the member within 90 days before the effective
27 date of retirement of the member:

28 “(A) Applies in writing to the Public Employees Retirement Board for
29 that creditable service; and

30 “(B) Pays to the board in a lump sum for credit to the member account

1 of the member the amount withdrawn and interest on the amount withdrawn
2 compounded annually for each year or portion of a year after the date of the
3 withdrawal and before the effective date of retirement or effective date of
4 application of the member. The interest shall be computed at the rate actu-
5 ally credited to regular accounts for that period.

6 “(b) This subsection provides a method of obtaining creditable service for
7 forfeited creditable service described in this subsection that is in lieu of any
8 application of subsection (1) of this section for that purpose.

9 “(4) Restoration of creditable service under this section does not affect
10 any forfeiture of rights of a person by reason of:

11 “(a) Withdrawal of an account established under ORS 238.440; **or**

12 “[*(b) Withdrawal from the pension program under ORS 238A.120; or*]

13 “[*(c)*] **(b)** Withdrawal of individual accounts pursuant to ORS 238A.375.

14 “**SECTION 25.** ORS 238.265 is amended to read:

15 “238.265. (1) Except as otherwise provided in this section, a member of the
16 Public Employees Retirement System may withdraw from the Public Em-
17 ployees Retirement Fund the amount credited to the member account, if any,
18 for the member if:

19 “(a) The member is separated from all service with participating public
20 employers;

21 “(b) The member is separated from all service with employers who are
22 treated as part of a participating public employer’s controlled group under
23 the federal laws and rules governing the status of the system and the fund
24 as a qualified governmental retirement plan and trust;

25 “(c) The member has not attained earliest service retirement age; and

26 “(d) The separation from service is not by reason of death or disability.

27 “(2) If a member wishes to withdraw the member account, if any, of the
28 member under this section, the member must transmit to the Public Em-
29 ployees Retirement Board a withdrawal request. The board shall deny the
30 withdrawal, or shall take all reasonable steps to recover withdrawn amounts,

1 if:

2 “(a) The board determines that the separation is not a bona fide sepa-
3 ration; or

4 “(b) The member fails to remain absent from the service of all employers
5 described in subsection (1) of this section for at least one calendar month
6 following the month in which the member separates from service.

7 “(3) If a member has contributed to the fund in each of five calendar years
8 and has separated from all service in the manner described in subsection (1)
9 of this section before reaching earliest service retirement age, the member
10 may elect to withdraw the member account of the member under this section
11 at any time before reaching earliest service retirement age. If the inactive
12 member does not make an election to withdraw under this section, the
13 member shall be paid the benefits or retirement allowances described in ORS
14 238.425.

15 “(4) [*A member who is vested in the pension program established under*
16 *ORS chapter 238A and who is eligible to withdraw from the pension program*
17 *under ORS 238A.120 may withdraw a member account under this section only*
18 *if the member also withdraws from the pension program.*] A member who has
19 an individual account or accounts in the individual account program estab-
20 lished under ORS chapter 238A may withdraw a member account under this
21 section only if the member also withdraws all individual accounts pursuant
22 to ORS 238A.375. A member who has an account established under ORS
23 238.440 may withdraw a member account under this section only if the
24 member also withdraws the account established under ORS 238.440.

25 “(5) Withdrawal of a member account under this section cancels all
26 membership rights in the system, including the right to claim credit for any
27 employment before withdrawal.

28 “**SECTION 26.** ORS 238A.110 is amended to read:

29 “238A.110. Membership under the pension program terminates when:

30 “(1) A member dies;

1 “(2) A member withdraws under ORS [238A.120] **238A.375**; or

2 “(3) A member forfeits retirement credit under ORS 238A.145.

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

4 “243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A
5 or ORS 243.910 to 243.945, the governing board of a public university listed
6 in ORS 352.002 shall establish and administer an Optional Retirement Plan
7 for administrative and academic employees of the public university. The
8 Optional Retirement Plan must be a qualified plan under the Internal Reve-
9 nue Code, capable of accepting funds transferred under subsection (7) of this
10 section without the transfer being treated as a taxable event under the
11 Internal Revenue Code, and willing to accept those funds. Retirement and
12 death benefits shall be provided under the plan by the purchase of annuity
13 contracts, fixed or variable or a combination thereof, or by contracts for in-
14 vestments in mutual funds.

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

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

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

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

26 “(4) An administrative or academic employee who does not elect to par-
27 ticipate 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] **amounts** credited to the member [account] **ac-**
13 **counts** of the member **established under ORS 238.250, 238.260 and**
14 **238A.350 and section 16 of this 2017 Act** shall be transferred directly to the
15 Optional Retirement Plan by the Public Employees Retirement Board in the
16 manner provided by subsection (7) of this section.

17 “(b) An administrative or academic employee who elects to participate in
18 the Optional Retirement Plan, who has creditable service under ORS chapter
19 238 as defined by ORS 238.005 and who is vested shall be considered to be
20 an inactive member by the Public Employees Retirement Board and shall
21 retain all the rights, privileges and options under ORS chapter 238 unless the
22 employee makes a written request to the Public Employees Retirement Board
23 for a transfer of the amounts credited to the member [account] **accounts** of
24 the member **established under ORS 238.250, 238.260 and 238A.350 and**
25 **section 16 of this 2017 Act** to the Optional Retirement Plan. A request for
26 a transfer must be made at the time the member elects to participate in the
27 Optional Retirement Plan. Upon receiving the request, the Public Employees
28 Retirement Board shall transfer all amounts credited to the member
29 [account] **accounts** of the member **established under ORS 238.250, 238.260**
30 **and 238A.350 and section 16 of this 2017 Act** directly to the Optional Re-

1 tirement Plan, and shall terminate all rights, privileges and options of the
2 employee under [ORS chapter 238] **ORS 238.095**.

3 “(c) [An administrative or academic employee who elects to participate in
4 the Optional Retirement Plan, and who is not a vested member of the pension
5 program of the Oregon Public Service Retirement Plan as described in ORS
6 238A.115] **An administrative or academic employee who elects to par-**
7 **ticipate in the Optional Retirement Plan and who is a member of the**
8 **pension program of the Oregon Public Service Retirement Plan as de-**
9 **scribed in ORS 238A.100 on the date that the election becomes effec-**
10 **tive, but who has not vested in the program under ORS 238A.115** on the
11 date that the election becomes effective, shall be considered to be a termi-
12 nated member of the [pension program] **Public Employees Retirement**
13 **System** by the Public Employees Retirement Board as of the effective date
14 of the election. **The board shall transfer the amounts credited to the**
15 **member accounts of the member established under ORS 238A.350 and**
16 **section 16 of this 2017 Act directly to the Optional Retirement Plan in**
17 **the manner provided by subsection (7) of this section.**

18 “(d) An administrative or academic employee who elects to participate in
19 the Optional Retirement Plan, and who is a vested member of the pension
20 program of the Oregon Public Service Retirement Plan as described in ORS
21 238A.115 on the date that the election becomes effective, shall be considered
22 an inactive member of the pension program by the Public Employees Re-
23 tirement Board as of the effective date of the election. [An employee] **A**
24 **member** who is subject to the provisions of this paragraph retains all the
25 rights, privileges and options of an inactive member of the pension
26 program[. *If the actuarial equivalent of the employee’s benefit under the pen-*
27 *sion program at the time that the election becomes effective is \$5,000 or less,*
28 *the employee may make*], **unless the member makes** a written request to
29 the Public Employees Retirement Board for a transfer of the [employee’s in-
30 terest under the pension program] **amounts credited to the member ac-**

1 **counts of the member established under ORS 238A.350 and section 16**
2 **of this 2017 Act** to the Optional Retirement Plan. The request must be made
3 at the time the member elects to participate in the Optional Retirement Plan.
4 Upon receiving the request, the Public Employees Retirement Board shall
5 transfer the [*amount determined to be the actuarial equivalent of the*
6 *employee's benefit under the pension program*] **amounts credited to the**
7 **member accounts of the member established under ORS 238A.350 and**
8 **section 16 of this 2017 Act** directly to the Optional Retirement Plan, and
9 shall terminate the membership of the employee in the [*pension program*]
10 **Public Employees Retirement System.**

11 “[(e) *An administrative or academic employee who elects to participate in*
12 *the Optional Retirement Plan, and who is a vested member of the individual*
13 *account program of the Oregon Public Service Retirement Plan as described*
14 *in ORS 238A.320 on the date that the election becomes effective, shall be con-*
15 *sidered an inactive member of the individual account program by the Public*
16 *Employees Retirement Board as of the effective date of the election. An em-*
17 *ployee who is subject to the provisions of this paragraph retains all the rights,*
18 *privileges and options of an inactive member of the individual account pro-*
19 *gram. An administrative or academic employee who elects to participate in the*
20 *Optional Retirement Plan, and who is a member of the individual account*
21 *program of the Oregon Public Service Retirement Plan, may make a written*
22 *request to the Public Employees Retirement Board that all amounts in the*
23 *member's employee account, rollover account and employer account, to the ex-*
24 *tent the member is vested in those accounts under ORS 238A.320, be trans-*
25 *ferred to the Optional Retirement Plan. The request must be made at the time*
26 *the member elects to participate in the Optional Retirement Plan. Upon re-*
27 *ceiving the request, the Public Employees Retirement Board shall transfer the*
28 *amounts directly to the Optional Retirement Plan, and shall terminate the*
29 *membership of the employee in the individual account program upon making*
30 *the transfer.*”]

1 “[~~(f)~~] **(e)** Notwithstanding paragraphs [~~(b)~~, ~~(d)~~ and ~~(e)~~] **(b) and (d)** of this
2 subsection, the Public Employees Retirement Board may not treat any em-
3 ployee as an inactive member under the provisions of this subsection for the
4 purpose of receiving any benefit under ORS chapter 238 or 238A that requires
5 that the employee be separated from all service with participating public
6 employers and with employers who are treated as part of a participating
7 public employer’s controlled group under the federal laws and rules govern-
8 ing the status of the Public Employees Retirement System and the Public
9 Employees Retirement Fund as a qualified governmental retirement plan and
10 trust.

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

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

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

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

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

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

6 “(11) Both employee and employer contributions to an Optional Retire-
7 ment Plan shall be remitted directly to the companies that have issued an-
8 nuity contracts to the participating employees or directly to the mutual
9 funds.

10 “(12) Benefits under the Optional Retirement Plan are payable to em-
11 ployees who elect to participate in the plan and their beneficiaries by the
12 selected annuity provider or mutual fund in accordance with the terms of the
13 annuity contracts or the terms of the contract with the mutual fund. Em-
14 ployees electing to participate in the Optional Retirement Plan agree that
15 benefits payable under the plan are not obligations of the State of Oregon
16 or of the Public Employees Retirement System.

17 **“SECTION 28.** ORS 341.551 is amended to read:

18 “341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A,
19 the Office of Community Colleges and Workforce Development may establish
20 and administer an optional retirement plan for administrative employees of
21 community college districts who are eligible for membership in the Public
22 Employees Retirement System. Any community college district may partic-
23 ipate in the plan by giving written notice to the office.

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

28 “(a) An administrative employee who is an active member of the Public
29 Employees Retirement System may make an election to participate in the
30 plan within 180 days after the community college district commences partic-

1 ipation in the plan, effective on the first day of the month following the
2 election.

3 “(b) An administrative employee who is hired after the community college
4 district commences participation in the plan may make an election to par-
5 ticipate in the plan within the first six months of employment, effective on
6 the first day of the month following six full months of employment.

7 “(3) An administrative employee who does not elect to participate in the
8 optional retirement plan remains or becomes a member of the Public Em-
9 ployees Retirement System in accordance with ORS chapters 238 and 238A.

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

21 “(5)(a) An administrative employee who elects to participate in the op-
22 tional retirement plan, who has creditable service under ORS chapter 238 as
23 defined by ORS 238.005 and who is not vested shall be considered by the
24 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
26 [*amount*] **amounts** credited to the member [*account*] **accounts** of the member
27 **established under ORS 238.250, 238.260 and 238A.350 and section 16 of**
28 **this 2017 Act** shall be transferred directly to the optional retirement plan
29 by the Public Employees Retirement Board in the manner provided by sub-
30 section (6) of this section.

1 “(b) An administrative employee who elects to participate in the optional
2 retirement plan, who has creditable service under ORS chapter 238 as defined
3 by ORS 238.005 and who is vested shall be considered to be an inactive
4 member by the Public Employees Retirement Board and shall retain all the
5 rights, privileges and options under ORS chapter 238 unless the employee
6 makes a written request to the Public Employees Retirement Board for a
7 transfer of the amounts credited to the member *[account]* **accounts** of the
8 member **established under ORS 238.250, 238.260 and 238A.350 and section**
9 **16 of this 2017 Act** to the optional retirement plan. A request for a transfer
10 must be made at the time the member elects to participate in the optional
11 retirement plan. Upon receiving the request, the Public Employees Retirement
12 Board shall transfer all amounts credited to the member *[account]* **ac-**
13 **counts** of the member **established under ORS 238.250, 238.260 and**
14 **238A.350 and section 16 of this 2017 Act** directly to the optional retirement
15 plan and shall terminate all rights, privileges and options of the employee
16 under *[ORS chapter 238]* **ORS 238.095.**

17 “(c) *[An administrative employee who elects to participate in the optional*
18 *retirement plan and who is not a vested member of the pension program of the*
19 *Oregon Public Service Retirement Plan as described in ORS 238A.115]* **An**
20 **administrative employee who elects to participate in the optional re-**
21 **tirement plan and who is a member of the pension program of the**
22 **Oregon Public Service Retirement Plan as described in ORS 238A.100**
23 **on the date that the election becomes effective, but who has not vested**
24 **in the program under ORS 238A.115** on the date that the election becomes
25 effective, shall be considered to be a terminated member of the *[pension*
26 *program]* **Public Employees Retirement System** by the Public Employees
27 Retirement Board as of the effective date of the election. **The board shall**
28 **transfer the amounts credited to the member accounts of the member**
29 **established under ORS 238A.350 and section 16 of this 2017 Act directly**
30 **to the optional retirement plan in the manner provided by subsection**

1 **(6) of this section.**

2 “(d) An administrative employee who elects to participate in the optional
3 retirement plan and who is a vested member of the pension program of the
4 Oregon Public Service Retirement Plan as described in ORS 238A.115 on the
5 date that the election becomes effective shall be considered an inactive
6 member of the pension program by the Public Employees Retirement Board
7 as of the effective date of the election. *[An employee]* **A member** who is
8 subject to the provisions of this paragraph retains all the rights, privileges
9 and options of an inactive member of the pension program. *If the actuarial*
10 *equivalent of the employee’s benefit under the pension program at the time that*
11 *the election becomes effective is \$5,000 or less, the employee may make*, **unless**
12 **the member makes** a written request to the Public Employees Retirement
13 Board for a transfer of the *[employee’s interest under the pension program]*
14 **amounts credited to the member accounts of the member established**
15 **under ORS 238A.350 and section 16 of this 2017 Act** to the optional re-
16 tirement plan. The request must be made at the time the member elects to
17 participate in the optional retirement plan. Upon receiving the request, the
18 Public Employees Retirement Board shall transfer the *[amount determined to*
19 *be the actuarial equivalent of the employee’s benefit under the pension*
20 *program]* **amounts credited to the member accounts of the member es-**
21 **tablished under ORS 238A.350 and section 16 of this 2017 Act** directly to
22 the optional retirement plan and shall terminate the membership of the em-
23 ployee in the *[pension program]* **Public Employees Retirement System.**

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

1 *of an inactive member of the individual account program. An administrative*
2 *employee who elects to participate in the optional retirement plan and who is*
3 *a member of the individual account program of the Oregon Public Service*
4 *Retirement Plan may make a written request to the Public Employees Retire-*
5 *ment Board that all amounts in the member's employee account, rollover ac-*
6 *count and employer account, to the extent the member is vested in those*
7 *accounts under ORS 238A.320, be transferred to the optional retirement plan.*
8 *The request must be made at the time the member elects to participate in the*
9 *optional retirement plan. Upon receiving the request, the Public Employees*
10 *Retirement 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.]*

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

23 “(6) Any amounts transferred from the Public Employees Retirement Fund
24 under subsection (5) of this section shall be transferred directly to the op-
25 tional retirement plan by the Public Employees Retirement Board and shall
26 not be made available to the employee.

27 “(7) An employee participating in the optional retirement plan shall con-
28 tribute monthly an amount equal to the percentage of the employee's salary
29 that the employee would otherwise have contributed as an employee contri-
30 bution to the Public Employees Retirement System if the employee had not

1 elected to participate in the optional retirement plan.

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

11 “(9) An administrative employee who elects to participate in the optional
12 retirement plan may make an election to withdraw from the plan. An em-
13 ployee may make an election under this subsection only once. Upon with-
14 drawing from the plan:

15 “(a) All contributions made to the plan before the effective date of the
16 withdrawal remain credited to the employee;

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

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

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

25

26 **“RECALCULATION OF EMPLOYER RATES**

27

28 **“SECTION 29. (1) As soon as practicable after the effective date of**
29 **this 2017 Act, the Public Employees Retirement Board shall:**

30 **“(a) Determine the amount of savings in employer contributions**

1 that are attributable to the provisions of this 2017 Act; and

2 “(b) Recalculate the contribution rates of all employers, pursuant
3 to ORS 238.225, to reflect the provisions of this 2017 Act.

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

8
9 “REVIEW BY SUPREME COURT

10
11 “SECTION 30. (1) Jurisdiction is conferred upon the Supreme Court
12 to determine in the manner provided by this section whether this 2017
13 Act breaches any contract between members of the Public Employees
14 Retirement System and their employers or violates any provision of
15 the Oregon Constitution or of the United States Constitution, includ-
16 ing but not limited to impairment of contract rights of members of the
17 Public Employees Retirement System under Article I, section 21, of the
18 Oregon Constitution, or Article I, section 10, clause 1, of the United
19 States Constitution.

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

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

26 “(b) The petition must include the following:

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

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

30 “(3) The petitioner shall serve a copy of the petition by registered

1 or certified mail upon the Public Employees Retirement Board, the
2 Attorney General and the Governor.

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

5 “(5) The Supreme Court shall allow public employers participating
6 in the Public Employees Retirement System to intervene in any pro-
7 ceeding under this section.

8 “(6)(a) The Supreme Court shall allow members of the Legislative
9 Assembly to intervene in any proceeding relating to this 2017 Act. Af-
10 ter a member intervenes in a proceeding relating to this 2017 Act, the
11 member has standing to participate in the proceeding even if the
12 member ceases to be a member of the Legislative Assembly.

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

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

20 “(8) The Supreme Court may not award attorney fees to a petitioner
21 in a proceeding under this section.

22

23

“CAPTIONS

24

25 “SECTION 31. The unit captions used in this 2017 Act are provided
26 only for the convenience of the reader and do not become part of the
27 statutory law of this state or express any legislative intent in the
28 enactment of this 2017 Act.

29

30

“EMERGENCY CLAUSE

1 **“SECTION 32. This 2017 Act being necessary for the immediate**
2 **preservation of the public peace, health and safety, an emergency is**
3 **declared to exist, and this 2017 Act takes effect on its passage.”.**

4
