

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 “238.105, 238.115, 238.265, 238A.110,
3 238A.120, 238A.320, 238A.330, 238A.335, 238A.340, 238A.375, 238A.410, 243.800
4 and 341.551; and declaring an emergency.”.

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

7 **“EMPLOYEE CONTRIBUTIONS**

8
9 **“SECTION 1.** 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 5 of this**
16 **2017 Act, as directed by the member under section 6 of this 2017 Act;**
17 **and**

18 **“(b) The percentage of the member’s salary set by the board under**
19 **section 6 of this 2017 Act, which the board shall credit to the member**
20 **pension contribution account established for the member under sec-**
21 **tion 5 of this 2017 Act.**

1 “[2] *Employee contributions made by a member of the individual account*
2 *program under this section shall be credited by the board to the employee ac-*
3 *count established for the member under ORS 238A.350 (2).*]

4 “[3] (2) A new member of the individual account program shall first
5 make contributions under this section for those wages that are attributable
6 to services performed by the employee during the first full pay period fol-
7 lowing the six-month probationary period required under ORS 238A.300,
8 without regard to when those wages are considered earned for other purposes
9 under this chapter.

10 **“SECTION 2.** ORS 238A.335 is amended to read:

11 “238A.335. (1) A participating public employer may agree, by a written
12 employment policy or by a collective bargaining agreement, to pay the em-
13 ployee contribution required under ORS 238A.330 (1)(a). The policy or
14 agreement need not include all members of the individual account program
15 employed by the employer.

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

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

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

24 “(3) A participating public employer must give written notice to the
25 Public Employees Retirement Board at the time that a written employment
26 policy or collective bargaining agreement described in subsection (1) of this
27 section is adopted or changed. The notice must specifically indicate whether
28 the agreement is as described in subsection (2)(a) or (b) of this section. Any
29 change in the manner in which employee contributions are to be paid applies
30 only to employee contributions made on and after the date the notice is re-

1 ceived by the board.

2 **“SECTION 3.** ORS 238A.340 is amended to read:

3 “238A.340. (1) A participating public employer may agree, by a written
4 employment policy or agreement, to make employer contributions for mem-
5 bers of the individual account program employed by the employer. The per-
6 centage of salary paid as employer contributions may not be less than one
7 percent of salary or more than six percent of salary, and must be a whole
8 number. A participating public employer may make an agreement under this
9 section for specific groups of employees employed by the public employer.

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

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

19 **“(a) January 1, 2018; or**

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

23 **“SECTION 4.** Sections 5 and 6 of this 2017 Act are added to and
24 **made a part of ORS chapter 238A.**

25 **“SECTION 5.** (1) The Public Employees Retirement Board shall es-
26 **tablish a member pension contribution account for each active mem-**
27 **ber of the Public Employees Retirement System.**

28 **“(2) Each account established under this section shall be adjusted**
29 **at least annually in accordance with rules adopted by the board to**
30 **reflect any net earnings or losses on the amounts in the account. The**

1 adjustments described in this subsection shall continue until the
2 amounts in the account are withdrawn or applied against the costs of
3 the pension or other retirement benefits payable to the member or the
4 member's beneficiary under this chapter or ORS chapter 238.

5 “(3)(a) Unless the amounts in an account established under this
6 section are withdrawn under ORS 238A.375, the amounts in the ac-
7 count established under this section shall be applied by the board to
8 pay the costs of the pension or other retirement benefits payable to
9 the member or the member's beneficiary under this chapter or ORS
10 chapter 238 that accrue on or after January 1, 2018.

11 “(b) If the amounts in the account established under this section
12 exceed the costs of the pension or other retirement benefits payable
13 to the member or the member's beneficiary under this chapter or ORS
14 chapter 238 that accrue on or after January 1, 2018, the board shall
15 refund the excess amounts to the member upon retirement.

16 **“SECTION 6.** (1) Once every two years, the Public Employees Re-
17 tirement Board shall set the percentage of salary that a member is
18 required to contribute to the member pension contribution account
19 established for the member under section 5 of this 2017 Act. The per-
20 centage of salary must be half of the percentage of the member's sal-
21 ary that must be contributed to the board under ORS 238.225 for the
22 member's normal cost. The board shall set separate contribution rates
23 under this subsection for members who establish membership before
24 August 29, 2003, and members who establish membership on or after
25 August 29, 2003.

26 “(2) The board shall allow a member to direct that all or part of the
27 employee contribution required under ORS 238A.330 (1)(a) be used to
28 make the employee contribution required under ORS 238A.330 (1)(b).
29 The amount used to make the employee contribution under ORS
30 238A.330 (1)(b) must be a percentage of salary, may not be less than

1 **one percent of salary or more than six percent of salary, and must be**
2 **a whole number.**

3 **“SECTION 7. Sections 5 and 6 of this 2017 Act and the amendments**
4 **to ORS 238A.330, 238A.335 and 238A.340 by sections 1 to 3 of this 2017**
5 **Act become operative on January 1, 2018.**

6 **“SECTION 8. Notwithstanding section 6 of this 2017 Act, the per-**
7 **centage of salary that a member is required to contribute to the**
8 **member pension contribution account established for the member un-**
9 **der section 5 of this 2017 Act may not exceed six percent of salary until**
10 **July 1, 2019.**

11 **“SECTION 9. ORS 238A.320 is amended to read:**

12 “238A.320. (1) A member of the individual account program becomes
13 vested in the employee account established for the member under ORS
14 238A.350 (2) on the date the employee account is established.

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

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

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

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

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

30 “(d) The date on which an active member becomes disabled, as described

1 in ORS 238A.155 (5).

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

3 “(4) If on the date that a person becomes an active member the person
4 has already reached the normal retirement age for the person under ORS
5 238A.160, and the employer makes employer contributions for the member
6 under ORS 238A.340, the person is vested in the employer account established
7 under ORS 238A.350 (3) on that date.

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

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

20 “(7) **A member becomes vested in the member pension contribution**
21 **account established for the member under section 5 of this 2017 Act**
22 **on the date the account is established.**

23 “**SECTION 10.** ORS 238A.375 is amended to read:

24 “238A.375. (1) An inactive member of the individual account program may
25 elect to receive a distribution of the amounts in the member’s employee ac-
26 count, rollover account, [*and*] employer account **and member pension**
27 **contribution account** to the extent the member is vested in those accounts
28 under ORS 238A.320 if the inactive member has separated from all service
29 with participating public employers and with employers who are treated as
30 part of a participating public employer’s controlled group under the federal

1 laws and rules governing the status of the system and the fund as a qualified
2 governmental retirement plan and trust.

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

7 “(3) A member may not make an election under this section for less than
8 all of the member’s individual accounts described in ORS 238A.350, **and the**
9 **member’s member pension contribution account described in section**
10 **5 of this 2017 Act**, in which the member is vested.

11 “(4) A member who is vested in the pension program established under
12 this chapter and who [*is eligible to withdraw from the pension program under*
13 *ORS 238A.120 may make an election under this section only if the member also*
14 *withdraws from the pension program*] **withdraws the member’s accounts**
15 **under this section cancels all membership rights in the Public Em-**
16 **ployees Retirement System.**

17 “(5) A member who has a member account established under ORS chapter
18 238 may make an election under this section only if the member also with-
19 draws that member account in the manner provided by ORS 238.265. A
20 member who has an account established under ORS 238.440 may make an
21 election under this section only if the member also withdraws the account
22 established under ORS 238.440.

23 “[5] (6) If an inactive member receives a distribution under subsection
24 (1) of this section and is subsequently reemployed by a participating public
25 employer, any service performed before the date the member became an in-
26 active member may not be used toward the period of service required for
27 vesting in the employer account under ORS 238A.320.

28 “**SECTION 11.** ORS 238A.410, as amended by section 9, chapter 33,
29 Oregon Laws 2016, is amended to read:

30 “238A.410. (1)(a) If a member of the individual account program dies be-

1 fore retirement, the amounts in the member's employee account, rollover
2 account and employer account, to the extent the member is vested in those
3 accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary
4 or beneficiaries designated by the member for the purposes of this section.

5 **“(b) If a member of the individual account program dies before re-**
6 **tirement, the amounts in the member pension contribution account**
7 **established for the member under section 5 of this 2017 Act shall be**
8 **applied by the Public Employees Retirement Board to pay the costs**
9 **of any benefit payable under ORS 238A.230. If the amounts in the**
10 **member pension contribution account exceed the costs of the benefit**
11 **payable under ORS 238A.230, the excess amounts shall be paid in a**
12 **lump sum to the beneficiary or beneficiaries designated by the member**
13 **for the purposes of this section.**

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

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

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

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

8 “(c) The member’s estate.

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

17 **“SECTION 12.** ORS 238A.120 is amended to read:

18 “238A.120. [(1) A vested inactive member may withdraw from the pension
19 program if:]

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

22 “[b) The inactive member has separated from all service with participating
23 public employers and with employers who are treated as part of a participating
24 public employer’s controlled group under the federal laws and rules governing
25 the status of the system and the fund as a qualified governmental retirement
26 plan and trust.]

27 “[2) Upon withdrawal under this section, the Public Employees Retirement
28 Board shall pay the withdrawing member the actuarial equivalent of the
29 member’s benefit in a lump sum.]

30 “[3) If a vested inactive member withdraws from the pension program un-

1 *der this section and is thereafter reemployed by a participating public em-*
2 *ployer:] A person who is a vested inactive member who withdraws from*
3 **the individual account program under ORS 238A.375 cancels the**
4 **person’s membership in the Public Employees Retirement System. If**
5 **the person is thereafter reemployed by a participating public employer:**

6 “[(a)] (1) The person may reestablish membership in the pension program
7 only for the purpose of service performed after the person is reemployed; and

8 “[(b)] (2) Any service performed before the withdrawal may not be cred-
9 ited toward the period of service required by ORS 238A.100 or 238A.115 or
10 toward the accrual of retirement credit under ORS 238A.140, 238A.150 or
11 238A.155.

12 “[4] *A member who has an individual account or accounts in the individ-*
13 *ual account program established under ORS 238A.025 may withdraw from the*
14 *pension program under this section only if the member also withdraws all in-*
15 *dividual accounts pursuant to ORS 238A.375. A member who has a member*
16 *account established under ORS chapter 238 may withdraw from the pension*
17 *program under this section only if the member also withdraws that member*
18 *account in the manner provided by ORS 238.265. A member who has an ac-*
19 *count established under ORS 238.440 may withdraw from the pension program*
20 *under this section only if the member also withdraws the account established*
21 *under ORS 238.440.]*

22 “[5] *For the purposes of this section, the actuarial equivalent of a member’s*
23 *benefit does not include any value attributable to adjustments to the benefit*
24 *under ORS 238A.210.]*

25 **“SECTION 13.** ORS 238.105 is amended to read:

26 “238.105. (1) Whenever, within five years after the employee is separated
27 from all service entitling the employee to membership in the **Public Em-**
28 **ployees Retirement** System, an employee who has withdrawn the amount
29 credited to the member account of the member reenters the service of an
30 employer participating in the system, the employee’s rights in the system

1 that were forfeited by the withdrawal shall be restored upon repaying to the
2 **Public Employees Retirement** Board within one year after reentering the
3 service of the employer, the full amount so withdrawn together with the in-
4 terest that would have been accumulated on the sum had the amount not
5 been withdrawn.

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

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

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

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

11 **“SECTION 14.** ORS 238.115 is amended to read:

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

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

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

29 “(b) If a member who obtains restoration of creditable service as provided
30 in this subsection does not obtain restoration of all creditable service for-

1 feited by the withdrawal pursuant to service after reentry, the payment un-
2 der paragraph (a) of this subsection shall be reduced proportionately to
3 reflect the percentage of creditable service restored.

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

7 “(2) A member who forfeited creditable service rendered to a public em-
8 ployer before March 27, 1953, because under ORS 237.976 (2) the employee
9 withdrew contributions of the employee to the Public Employees Retirement
10 System established by chapter 401, Oregon Laws 1945, and who did not obtain
11 restoration of creditable service so forfeited as provided in chapter 857,
12 Oregon Laws 1977, shall, upon retirement, receive restoration of creditable
13 service so forfeited, if the member, before the effective date of retirement of
14 the member:

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

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

22 “(3)(a) A member of the Public Employees Retirement System who was a
23 member of an association established pursuant to ORS chapter 239 (1997
24 Edition), but separated from all service entitling the employee to membership
25 in the system of the association and withdrew the amount credited to the
26 member account of the employee in the retirement fund of the association,
27 and who, after that separation, entered the service of an employer in the
28 field of education participating in the Public Employees Retirement System
29 and served as an active member of that system for 10 years after that entry,
30 and who has not otherwise obtained restoration of all creditable service

1 forfeited by the withdrawal, shall obtain creditable service as a member of
2 the Public Employees Retirement System equal to all creditable service for-
3 feited by the withdrawal if the member within 90 days before the effective
4 date of retirement of the member:

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

7 “(B) Pays to the board in a lump sum for credit to the member account
8 of the member the amount withdrawn and interest on the amount withdrawn
9 compounded annually for each year or portion of a year after the date of the
10 withdrawal and before the effective date of retirement or effective date of
11 application of the member. The interest shall be computed at the rate actu-
12 ally credited to regular accounts for that period.

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

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

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

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

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

21 **“SECTION 15.** ORS 238.265 is amended to read:

22 “238.265. (1) Except as otherwise provided in this section, a member of the
23 Public Employees Retirement System may withdraw from the Public Em-
24 ployees Retirement Fund the amount credited to the member account, if any,
25 for the member if:

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

28 “(b) The member is separated from all service with employers who are
29 treated as part of a participating public employer’s controlled group under
30 the federal laws and rules governing the status of the system and the fund

1 as a qualified governmental retirement plan and trust;

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

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

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

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

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

14 “(3) If a member has contributed to the fund in each of five calendar years
15 and has separated from all service in the manner described in subsection (1)
16 of this section before reaching earliest service retirement age, the member
17 may elect to withdraw the member account of the member under this section
18 at any time before reaching earliest service retirement age. If the inactive
19 member does not make an election to withdraw under this section, the
20 member shall be paid the benefits or retirement allowances described in ORS
21 238.425.

22 “(4) [*A member who is vested in the pension program established under*
23 *ORS chapter 238A and who is eligible to withdraw from the pension program*
24 *under ORS 238A.120 may withdraw a member account under this section only*
25 *if the member also withdraws from the pension program.*] A member who has
26 an individual account or accounts in the individual account program estab-
27 lished under ORS chapter 238A may withdraw a member account under this
28 section only if the member also withdraws all individual accounts pursuant
29 to ORS 238A.375. A member who has an account established under ORS
30 238.440 may withdraw a member account under this section only if the

1 member also withdraws the account established under ORS 238.440.

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

5 **“SECTION 16.** ORS 238A.110 is amended to read:

6 “238A.110. Membership under the pension program terminates when:

7 “(1) A member dies;

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

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

10 **“SECTION 17.** ORS 243.800 is amended to read:

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

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

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

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

28 “(3) An administrative or academic employee may make an irrevocable
29 election to participate in the Optional Retirement Plan within six months
30 after being employed. An election under this subsection is effective on the

1 first day of the month following the completion of the requirements of sub-
2 section (2) of this section.

3 “(4) An administrative or academic employee who does not elect to par-
4 ticipate in the Optional Retirement Plan:

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

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

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

14 “(6)(a) An administrative or academic employee who elects to participate
15 in the Optional Retirement Plan, who has creditable service under ORS
16 chapter 238 as defined by ORS 238.005 and who is not vested shall be con-
17 sidered by the Public Employees Retirement Board to be a terminated mem-
18 ber under the provisions of ORS 238.095 as of the effective date of the
19 election, and the [amount] **amounts** credited to the member [account] **ac-**
20 **counts** of the member **established under ORS 238.250, 238.260 and**
21 **238A.350 and section 5 of this 2017 Act** shall be transferred directly to the
22 Optional Retirement Plan by the Public Employees Retirement Board in the
23 manner provided by subsection (7) of this section.

24 “(b) An administrative or academic employee who elects to participate in
25 the Optional Retirement Plan, who has creditable service under ORS chapter
26 238 as defined by ORS 238.005 and who is vested shall be considered to be
27 an inactive member by the Public Employees Retirement Board and shall
28 retain all the rights, privileges and options under ORS chapter 238 unless the
29 employee makes a written request to the Public Employees Retirement Board
30 for a transfer of the amounts credited to the member [account] **accounts** of

1 the member **established under ORS 238.250, 238.260 and 238A.350 and**
2 **section 5 of this 2017 Act** to the Optional Retirement Plan. A request for
3 a transfer must be made at the time the member elects to participate in the
4 Optional Retirement Plan. Upon receiving the request, the Public Employees
5 Retirement Board shall transfer all amounts credited to the member
6 *[account]* **accounts of the member established under ORS 238.250, 238.260**
7 **and 238A.350 and section 5 of this 2017 Act** directly to the Optional Re-
8 tirement Plan, and shall terminate all rights, privileges and options of the
9 employee under *[ORS chapter 238]* **ORS 238.095.**

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

25 “(d) An administrative or academic employee who elects to participate in
26 the Optional Retirement Plan, and who is a vested member of the pension
27 program of the Oregon Public Service Retirement Plan as described in ORS
28 238A.115 on the date that the election becomes effective, shall be considered
29 an inactive member of the pension program by the Public Employees Re-
30 tirement Board as of the effective date of the election. *[An employee]* **A**

1 **member** who is subject to the provisions of this paragraph retains all the
2 rights, privileges and options of an inactive member of the pension
3 program[. *If the actuarial equivalent of the employee's benefit under the pen-*
4 *sion program at the time that the election becomes effective is \$5,000 or less,*
5 *the employee may make*], **unless the member makes** a written request to
6 the Public Employees Retirement Board for a transfer of the [*employee's in-*
7 *terest under the pension program*] **amounts credited to the member ac-**
8 **counts of the member established under ORS 238A.350 and section 5**
9 **of this 2017 Act** to the Optional Retirement Plan. The request must be made
10 at the time the member elects to participate in the Optional Retirement Plan.
11 Upon receiving the request, the Public Employees Retirement Board shall
12 transfer the [*amount determined to be the actuarial equivalent of the*
13 *employee's benefit under the pension program*] **amounts credited to the**
14 **member accounts of the member established under ORS 238A.350 and**
15 **section 5 of this 2017 Act** directly to the Optional Retirement Plan, and
16 shall terminate the membership of the employee in the [*pension program*]
17 **Public Employees Retirement System.**

18 “*[(e) An administrative or academic employee who elects to participate in*
19 *the Optional Retirement Plan, and who is a vested member of the individual*
20 *account program of the Oregon Public Service Retirement Plan as described*
21 *in ORS 238A.320 on the date that the election becomes effective, shall be con-*
22 *sidered an inactive member of the individual account program by the Public*
23 *Employees Retirement Board as of the effective date of the election. An em-*
24 *ployee who is subject to the provisions of this paragraph retains all the rights,*
25 *privileges and options of an inactive member of the individual account pro-*
26 *gram. An administrative or academic employee who elects to participate in the*
27 *Optional Retirement Plan, and who is a member of the individual account*
28 *program of the Oregon Public Service Retirement Plan, may make a written*
29 *request to the Public Employees Retirement Board that all amounts in the*
30 *member's employee account, rollover account and employer account, to the ex-*

1 *tent the member is vested in those accounts under ORS 238A.320, be trans-*
2 *ferred to the Optional Retirement Plan. The request must be made at the time*
3 *the member elects to participate in the Optional Retirement Plan. Upon re-*
4 *ceiving the request, the Public Employees Retirement Board shall transfer the*
5 *amounts directly to the Optional Retirement Plan, and shall terminate the*
6 *membership of the employee in the individual account program upon making*
7 *the transfer.]*

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

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

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

28 “(9) For an employee participating in the Optional Retirement Plan who
29 was hired before July 1, 2014, the governing board shall contribute monthly
30 to the Optional Retirement Plan the percentage of salary of the employee

1 equal to the percentage of salary that would otherwise have been contributed
2 as an employer contribution on behalf of the employee to the Public Em-
3 ployees Retirement System, before any offset under ORS 238.229 (2), if the
4 employee had not elected to participate in the Optional Retirement Plan.

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

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

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

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

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

24 **“SECTION 18.** ORS 341.551 is amended to read:

25 “341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A,
26 the Office of Community Colleges and Workforce Development may establish
27 and administer an optional retirement plan for administrative employees of
28 community college districts who are eligible for membership in the Public
29 Employees Retirement System. Any community college district may partic-
30 ipate in the plan by giving written notice to the office.

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

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

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

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

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

28 “(5)(a) An administrative employee who elects to participate in the op-
29 tional retirement plan, who has creditable service under ORS chapter 238 as
30 defined by ORS 238.005 and who is not vested shall be considered by the

1 Public Employees Retirement Board to be a terminated member under the
2 provisions of ORS 238.095 as of the effective date of the election, and the
3 [amount] **amounts** credited to the member [account] **accounts** of the member
4 **established under ORS 238.250, 238.260 and 238A.350 and section 5 of this**
5 **2017 Act** shall be transferred directly to the optional retirement plan by the
6 Public Employees Retirement Board in the manner provided by subsection
7 (6) of this section.

8 “(b) An administrative employee who elects to participate in the optional
9 retirement plan, who has creditable service under ORS chapter 238 as defined
10 by ORS 238.005 and who is vested shall be considered to be an inactive
11 member by the Public Employees Retirement Board and shall retain all the
12 rights, privileges and options under ORS chapter 238 unless the employee
13 makes a written request to the Public Employees Retirement Board for a
14 transfer of the amounts credited to the member [account] **accounts** of the
15 member **established under ORS 238.250, 238.260 and 238A.350 and section**
16 **5 of this 2017 Act** to the optional retirement plan. A request for a transfer
17 must be made at the time the member elects to participate in the optional
18 retirement plan. Upon receiving the request, the Public Employees Retirement
19 Board shall transfer all amounts credited to the member [account] **ac-**
20 **counts** of the member **established under ORS 238.250, 238.260 and**
21 **238A.350 and section 5 of this 2017 Act** directly to the optional retirement
22 plan and shall terminate all rights, privileges and options of the employee
23 under [ORS chapter 238] **ORS 238.095.**

24 “(c) [An administrative employee who elects to participate in the optional
25 retirement plan and who is not a vested member of the pension program of the
26 Oregon Public Service Retirement Plan as described in ORS 238A.115] **An**
27 **administrative employee who elects to participate in the optional re-**
28 **tirement plan and who is a member of the pension program of the**
29 **Oregon Public Service Retirement Plan as described in ORS 238A.100**
30 **on the date that the election becomes effective, but who has not vested**

1 **in the program under ORS 238A.115** on the date that the election becomes
2 effective, shall be considered to be a terminated member of the [*pension*
3 *program*] **Public Employees Retirement System** by the Public Employees
4 Retirement Board as of the effective date of the election. **The board shall**
5 **transfer the amounts credited to the member accounts of the member**
6 **established under ORS 238A.350 and section 5 of this 2017 Act directly**
7 **to the optional retirement plan in the manner provided by subsection**
8 **(6) of this section.**

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

1 “(e) An administrative employee who elects to participate in the optional
2 retirement plan and who is a vested member of the individual account program
3 of the Oregon Public Service Retirement Plan as described in ORS 238A.320
4 on the date that the election becomes effective shall be considered an inactive
5 member of the individual account program by the Public Employees Retirement
6 Board as of the effective date of the election. An employee who is subject to
7 the provisions of this paragraph retains all the rights, privileges and options
8 of an inactive member of the individual account program. An administrative
9 employee who elects to participate in the optional retirement plan and who is
10 a member of the individual account program of the Oregon Public Service
11 Retirement Plan may make a written request to the Public Employees Retirement
12 Board that all amounts in the member’s employee account, rollover ac-
13 count and employer account, to the extent the member is vested in those
14 accounts under ORS 238A.320, be transferred to the optional retirement plan.
15 The request must be made at the time the member elects to participate in the
16 optional retirement plan. Upon receiving the request, the Public Employees
17 Retirement Board shall transfer the amounts directly to the optional retirement
18 plan and shall terminate the membership of the employee in the individual
19 account program.]

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

30 “(6) Any amounts transferred from the Public Employees Retirement Fund

1 under subsection (5) of this section shall be transferred directly to the op-
2 tional retirement plan by the Public Employees Retirement Board and shall
3 not be made available to the employee.

4 “(7) An employee participating in the optional retirement plan shall con-
5 tribute monthly an amount equal to the percentage of the employee’s salary
6 that the employee would otherwise have contributed as an employee contri-
7 bution to the Public Employees Retirement System if the employee had not
8 elected to participate in the optional retirement plan.

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

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

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

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

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

29 “(10) For the purposes of this section, ‘administrative employee’ means a
30 president, vice president or dean, or a person holding a position that is the

1 equivalent of a president, vice president or dean.

2
3 **“RECALCULATION OF EMPLOYER RATES**

4
5 **“SECTION 19. (1) As soon as practicable after the effective date of**
6 **this 2017 Act, the Public Employees Retirement Board shall:**

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

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

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

15
16 **“REVIEW BY SUPREME COURT**

17
18 **“SECTION 20. (1) Jurisdiction is conferred upon the Supreme Court**
19 **to determine in the manner provided by this section whether this 2017**
20 **Act breaches any contract between members of the Public Employees**
21 **Retirement System and their employers or violates any provision of**
22 **the Oregon Constitution or of the United States Constitution, includ-**
23 **ing but not limited to impairment of contract rights of members of the**
24 **Public Employees Retirement System under Article I, section 21, of the**
25 **Oregon Constitution, or Article I, section 10, clause 1, of the United**
26 **States Constitution.**

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

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

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

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

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

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

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

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

15 “(6)(a) The Supreme Court shall allow members of the Legislative
16 Assembly to intervene in any proceeding relating to this 2017 Act. Af-
17 ter a member intervenes in a proceeding relating to this 2017 Act, the
18 member has standing to participate in the proceeding even if the
19 member ceases to be a member of the Legislative Assembly.

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

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

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

29

30

“CAPTIONS

1 **SECTION 21. The unit captions used in this 2017 Act are provided**
2 **only for the convenience of the reader and do not become part of the**
3 **statutory law of this state or express any legislative intent in the**
4 **enactment of this 2017 Act.**

5

6

“EMERGENCY CLAUSE

7

8 **SECTION 22. This 2017 Act being necessary for the immediate**
9 **preservation of the public peace, health and safety, an emergency is**
10 **declared to exist, and this 2017 Act takes effect on its passage.”.**

11
