

Requested by Representative HUFFMAN

**PROPOSED AMENDMENTS TO
SENATE BILL 1067**

1 On page 1 of the printed bill, line 3, after “173.420,” delete the rest of the
2 line and delete line 4 and insert “238.005, 238.300, 238.350, 238.435, 238.605,
3 238.670, 238A.320, 238A.330, 238A.340, 238A.350, 238A.375, 238A.410, 240.185,
4 243.105, 243.135, 243.221, 243.800, 243.860, 243.866, 243.874, 279A.025, 291.210,
5 291.216, 291.263, 291.371, 293.226, 293.229, 293.231, 293.233, 293.240, 293.250,
6 293.252, 332.075, 341.551 and 442.396; repealing ORS 243.061, 243.066, 243.125,
7 243.165, 243.167, 243.862, 243.864, 243.879, 243.880 and 243.884;”.

8 On page 2, delete lines 27 through 45.

9 On page 3, delete lines 1 through 20 and insert:

10
11 **“(Report on collective bargaining rollup
12 costs and addition of steps in ranges)**

13
14 **“SECTION 3.** ORS 291.371, as amended by section 34, chapter 117, Oregon
15 Laws 2016, is amended to read:

16 “291.371. (1) As used in this section:

17 “(a) ‘Legislative review agency’ means the Joint Committee on Ways and
18 Means during the period when the Legislative Assembly is in session and the
19 Emergency Board or the Joint Interim Committee on Ways and Means dur-
20 ing the interim period between sessions.

21 “(b) ‘State agency’ has the meaning given that term in ORS 291.002.

1 “(2) Prior to making any changes in a compensation plan, the Oregon
2 Department of Administrative Services shall submit the proposed changes[,
3 *including step pay increases,*] to the legislative review agency. **The proposed**
4 **changes to be submitted to the legislative review agency include:**

5 “(a) **Step pay increases;**

6 “(b) **Cost of living adjustments;**

7 “(c) **The addition of steps in position pay ranges;**

8 “(d) **Changes in insurance premiums for health, dental, disability,**
9 **life and accidental death and dismemberment insurance;**

10 “(e) **Changes to contributions to health savings accounts, health**
11 **reimbursement accounts and early retirement accounts;**

12 “(f) **Any other actions that have an economic effect on a compen-**
13 **sation plan; and**

14 “(g) **Estimates of the total cost of any compensation plan changes**
15 **for the current biennium and the next full biennium.**

16 “(3)(a) The Oregon Department of Administrative Services may approve
17 the reallocation of positions or the establishment of new positions not spe-
18 cifically provided for in the budget of the affected state agency if it finds
19 that the proposed change:

20 “(A) Can be financed by the state agency within the limits of its biennial
21 budget and legislatively approved program;

22 “(B) Will not produce future budgetary increases; and

23 “(C) Conforms to legislatively approved salary policies.

24 “(b) Proposed changes not meeting the requirements of paragraph (a) of
25 this subsection shall be presented to the legislative review agency.

26 “(4) State agencies shall report on a biennial basis to the legislative re-
27 view agency. Each report shall include the number of vacant budgeted posi-
28 tions, including all job categories and classifications, within the state
29 agency. The legislative review agency shall order the reporting state agency
30 to show cause why the budgeted positions have not been filled and shall as-

1 sess fully the impact the vacancies have on:

2 “(a) The state agency’s delivery of services, accounting for any seasonal
3 fluctuation in the need for those services;

4 “(b) The state agency’s budget due to increased use of overtime;

5 “(c) The state agency’s use of temporary employees; and

6 “(d) Employee workload.

7 **“SECTION 3a. Section 3b of this 2017 Act is added to and made a
8 part of ORS chapter 291.**

9 **“SECTION 3b. The Oregon Department of Administrative Services
10 may not change the compensation plan of a state agency, including
11 the components listed in ORS 291.371 (2) but excluding changes in
12 employer contributions to the Public Employees Retirement System,
13 if the changes increase the compensation obligations of the state
14 agency by more than 6.5 percent in any biennium.”.**

15 On page 8, after line 39, insert:

16

17 **“(Employee contributions)**

18

19 **“SECTION 13. ORS 238A.330 is amended to read:**

20 “238A.330. (1) A member of the individual account program must make
21 employee contributions to the individual account program of six percent of
22 the member’s salary.

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

26 **“(2) For a member who established membership in the system be-
27 fore August 29, 2003, as described in ORS 238A.025, the board shall
28 credit all employee contributions made under this section to the
29 member pension contribution account established for the member un-
30 der ORS 238A.350 (3).**

1 **“(3) For a member who established membership in the system on**
2 **or after August 29, 2003, as described in ORS 238A.025, the board shall**
3 **credit:**

4 **“(a) Four percent of the member’s salary to the member pension**
5 **contribution account established for the member under ORS 238A.350**
6 **(3); and**

7 **“(b) Two percent of the member’s salary to the employee account**
8 **established for the member under ORS 238A.350 (2).**

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

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

16 “238A.340. (1) A participating public employer may agree, by a written
17 employment policy or agreement, to make employer contributions for mem-
18 bers of the individual account program employed by the employer. The per-
19 centage of salary paid as employer contributions may not be less than one
20 percent of salary or more than six percent of salary, and must be a whole
21 number. A participating public employer may make an agreement under this
22 section for specific groups of employees employed by the public employer.

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

29 **“(3) Notwithstanding subsections (1) and (2) of this section, a par-**
30 **ticipating public employer may not make contributions under this**

1 **section on or after the later of:**

2 **“(a) January 1, 2018; or**

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

6 **“SECTION 15.** ORS 238A.350 is amended to read:

7 **“238A.350. (1) Upon any contributions being made to the individual ac-**
8 **count program by or on behalf of a member of the program, the Public Em-**
9 **ployees Retirement Board shall create the account or accounts described in**
10 **this section. Each account shall be adjusted at least annually in accordance**
11 **with rules adopted by the board to reflect any net earnings or losses on those**
12 **contributions and to pay the reasonable administrative costs of maintaining**
13 **the program to the extent the earnings on the assets of the program are in-**
14 **sufficient to pay those costs. The adjustments described in this subsection**
15 **shall continue until the account is distributed to the member [or], forfeited**
16 **or applied to pay the costs of a pension or other retirement benefits**
17 **under subsection (3) of this section.**

18 **“(2)(a) The board shall establish an employee account, which shall consist**
19 **of the employee contributions made by or on behalf of the member under**
20 **ORS 238A.330, as adjusted under subsection (1) of this section, that are not**
21 **allocated under ORS 238A.330 to the member pension contribution ac-**
22 **count established for the member.**

23 **“(b) The board shall create a separate employee account for a member**
24 **who becomes an active member for the purpose of service in the Legislative**
25 **Assembly under ORS 237.650, which shall consist of the employee contribu-**
26 **tions made by or on behalf of the member that are attributable to the**
27 **member’s legislative service, as adjusted under subsection (1) of this section.**

28 **“(3)(a) The board shall establish a member pension contribution**
29 **account, which shall consist of the employee contributions made by**
30 **or on behalf of the member under ORS 238A.330, as adjusted under**

1 subsection (1) of this section, that are allocated under ORS 238A.330
2 to the member pension contribution account established for the
3 member.

4 “(b) Unless the amounts in a member pension contribution account
5 established under this subsection are withdrawn under ORS 238A.375,
6 the amounts in the account shall be applied by the board to pay the
7 costs of the pension or other retirement benefits payable to the mem-
8 ber or the member’s beneficiary under this chapter or ORS chapter 238
9 that are earned on or after January 1, 2018.

10 “(c) If the amounts in the member pension contribution account
11 established under this subsection exceed the actuarially projected costs
12 of the pension or other retirement benefits payable to the member or
13 the member’s beneficiary under this chapter or ORS chapter 238 that
14 are earned on or after January 1, 2018, the board shall refund the ex-
15 cess amounts to the member upon retirement.

16 “[3] (4) If the public employer agrees to make employer contributions
17 under ORS 238A.340, the board shall establish an employer account, which
18 shall consist of the employer contributions made on behalf of the member
19 as adjusted under subsection (1) of this section.

20 “[4] (5) If the board accepts rollover contributions on behalf of the
21 member, the board shall establish a rollover account, which shall consist of
22 the rollover contributions made by the member as adjusted under subsection
23 (1) of this section. Contributions and the earnings attributable to the con-
24 tributions must be accounted for separately.

25 “[5] (6) The board shall provide an annual statement to each active and
26 inactive member of the program that reflects the amount credited to the ac-
27 counts established under this section. The statement shall reflect whether
28 the member is vested in the employer account under the provisions of ORS
29 238A.320.

30 **“SECTION 16.** ORS 238A.320 is amended to read:

1 “238A.320. (1) A member of the individual account program becomes
2 vested in the employee account established for the member under ORS
3 238A.350 (2) on the date the employee account is established.

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

7 “(3) Except as provided in subsection (4) of this section, if an employer
8 makes employer contributions for a member under ORS 238A.340, the member
9 becomes vested in the employer account established under ORS 238A.350
10 [(3)] (4) on the earliest of the following dates:

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

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

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

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

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

22 “(4) If on the date that a person becomes an active member the person
23 has already reached the normal retirement age for the person under ORS
24 238A.160, and the employer makes employer contributions for the member
25 under ORS 238A.340, the person is vested in the employer account established
26 under ORS 238A.350 [(3)] (4) on that date.

27 “(5) If a member of the individual account program who is not vested in
28 the employer account performs fewer than 600 hours of service in each of five
29 consecutive calendar years, hours of service performed before the first cal-
30 endar year of the period of five consecutive calendar years shall be disre-

1 garded for purposes of determining whether the member is vested under
2 subsection (3)(a) of this section.

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

9 **“(7) A member becomes vested in the member pension contribution**
10 **account established for the member under ORS 238A.350 (3) on the date**
11 **the account is established.**

12 **“SECTION 17.** ORS 238A.375 is amended to read:

13 **“238A.375. (1)(a)** An inactive member of the individual account program
14 may elect to receive a distribution of the amounts in the member’s employee
15 account, rollover account and employer account to the extent the member is
16 vested in those accounts under ORS 238A.320 if the inactive member has
17 separated from all service with participating public employers and with em-
18 ployers who are treated as part of a participating public employer’s con-
19 trolled group under the federal laws and rules governing the status of the
20 system and the fund as a qualified governmental retirement plan and trust.

21 **“(b)(A) An inactive member of the individual account program may**
22 **elect to receive a distribution of the amounts in the member’s member**
23 **pension contribution account established for the member under ORS**
24 **238A.350 (3) if:**

25 **“(i) The inactive member has separated from all service with par-**
26 **ticipating public employers and with employers who are treated as part**
27 **of a participating public employer’s controlled group under the federal**
28 **laws and rules governing the status of the system and the fund as a**
29 **qualified governmental retirement plan and trust; and**

30 **“(ii) The member is eligible to withdraw and withdraws from the**

1 **pension program under ORS 238A.120.**

2 **“(B) The withdrawal of the member’s accounts under this para-**
3 **graph cancels all membership rights in the Public Employees Retire-**
4 **ment System.**

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

9 “(3) A member may not make an election under this section for less than
10 all of the member’s individual accounts described in ORS 238A.350 in which
11 the member is vested.

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

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

22 “[5] (6) If an inactive member receives a distribution under subsection
23 (1) of this section and is subsequently reemployed by a participating public
24 employer, any service performed before the date the member became an in-
25 active member may not be used toward the period of service required for
26 vesting in the employer account under ORS 238A.320.

27 **“SECTION 18.** ORS 238A.410, as amended by section 9, chapter 33,
28 Oregon Laws 2016, is amended to read:

29 “238A.410. (1)(a) If a member of the individual account program dies be-
30 fore retirement, the amounts in the member’s employee account, rollover

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

4 **“(b) If a member of the individual account program dies before re-**
5 **tirement, the amounts in the member pension contribution account**
6 **established for the member under ORS 238A.350 (3) shall be applied by**
7 **the Public Employees Retirement Board to pay the costs of any benefit**
8 **payable under ORS 238A.230. If the amounts in the member pension**
9 **contribution account exceed the costs of the benefit payable under**
10 **ORS 238A.230, the excess amounts shall be paid in a lump sum to the**
11 **beneficiary or beneficiaries designated by the member for the purposes**
12 **of this section.**

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

30 “(3) For purposes of this section and ORS 238A.400 (3), if a member fails

1 to designate a beneficiary, or if the person or persons designated do not
2 survive the member, the death benefit provided for in this section shall be
3 paid to the following person or persons, in the following order of priority:

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

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

7 “(c) The member’s estate.

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

16 **“SECTION 19.** ORS 243.800 is amended to read:

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

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

30 “(a) Six hundred hours of employment, or the equivalent as determined

1 by the governing board; and

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

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

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

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

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

15 “(5) Except as provided in subsection (6) 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 or for any assistance
18 by the governing board under ORS 243.920 as long as those employees are
19 employed in the public university and the plan is in effect.

20 “(6)(a) An administrative or academic employee who elects to participate
21 in the Optional Retirement Plan, who has creditable service under ORS
22 chapter 238 as defined by ORS 238.005 and who is not vested shall be con-
23 sidered by the Public Employees Retirement Board to be a terminated mem-
24 ber under the provisions of ORS 238.095 as of the effective date of the
25 election, and the [*amount*] **amounts** credited to the member [*account*] **ac-**
26 **counts** of the member **established under ORS 238.250 and 238.260** shall be
27 transferred directly to the Optional Retirement Plan by the Public Employ-
28 ees Retirement Board in the manner provided by subsection (7) of this sec-
29 tion.

30 “(b) An administrative or academic employee who elects to participate in

1 the Optional Retirement Plan, who has creditable service under ORS chapter
2 238 as defined by ORS 238.005 and who is vested shall be considered to be
3 an inactive member by the Public Employees Retirement Board and shall
4 retain all the rights, privileges and options under ORS chapter 238 unless the
5 employee makes a written request to the Public Employees Retirement Board
6 for a transfer of the amounts credited to the member [account] **accounts** of
7 the member **established under ORS 238.250 and 238.260** to the Optional
8 Retirement Plan. A request for a transfer must be made at the time the
9 member elects to participate in the Optional Retirement Plan. Upon receiv-
10 ing the request, the Public Employees Retirement Board shall transfer all
11 amounts credited to the member [account] **accounts** of the member **estab-**
12 **lished under ORS 238.250 and 238.260** directly to the Optional Retirement
13 Plan, and shall terminate all rights, privileges and options of the employee
14 [under ORS chapter 238] **as provided in ORS 238.095.**

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

29 “(d) An administrative or academic employee who elects to participate in
30 the Optional Retirement Plan, and who is a vested member of the pension

1 program of the Oregon Public Service Retirement Plan as described in ORS
2 238A.115 on the date that the election becomes effective, shall be considered
3 an inactive member of the pension program by the Public Employees Re-
4 tirement Board as of the effective date of the election. An employee who is
5 subject to the provisions of this paragraph retains all the rights, privileges
6 and options of an inactive member of the pension program. If the actuarial
7 equivalent of the employee's benefit under the pension program at the time
8 that the election becomes effective is \$5,000 or less, the employee may make
9 a written request to the Public Employees Retirement Board for a transfer
10 of the employee's interest under the pension program to the Optional Re-
11 tirement Plan. The request must be made at the time the member elects to
12 participate in the Optional Retirement Plan. Upon receiving the request, the
13 Public Employees Retirement Board shall transfer the amount determined to
14 be the actuarial equivalent of the employee's benefit under the pension pro-
15 gram directly to the Optional Retirement Plan, and shall terminate the
16 membership of the employee in the pension program.

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

1 **under ORS 238A.350**, to the extent the member is vested in those accounts
2 under ORS 238A.320, be transferred to the Optional Retirement Plan. The
3 request 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 the amounts directly to the Optional Re-
6 tirement Plan, and shall terminate the membership of the employee in the
7 individual account program upon making the transfer.

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

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

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

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

1 as an employer contribution on behalf of the employee to the Public Em-
2 ployees Retirement System, before any offset under ORS 238.229 (2), if the
3 employee had not elected to participate in the Optional Retirement Plan.

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

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

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

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

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

23 **“SECTION 20.** ORS 341.551 is amended to read:

24 “341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A,
25 the Office of Community Colleges and Workforce Development may establish
26 and administer an optional retirement plan for administrative employees of
27 community college districts who are eligible for membership in the Public
28 Employees Retirement System. Any community college district may partic-
29 ipate in the plan by giving written notice to the office.

30 “(2) An administrative employee may make an election to participate in

1 the optional retirement plan if the community college district that employs
2 the employee is participating in the plan. The election must be made in the
3 following manner:

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

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

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

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

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

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

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

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

1 the election. **The board shall transfer the amounts credited to the**
2 **member accounts of the member directly to the optional retirement**
3 **plan in the manner provided by subsection (6) of this section.**

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

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

1 optional retirement plan and who is a member of the individual account
2 program of the Oregon Public Service Retirement Plan may make a written
3 request to the Public Employees Retirement Board that all amounts [*in the*
4 *member's employee account, rollover account and employer account*] **credited**
5 **to the member accounts of the member established under ORS**
6 **238A.350**, to the extent the member is vested in those accounts under ORS
7 238A.320, be transferred to the optional retirement plan. The request must
8 be made at the time the member elects to participate in the optional retire-
9 ment plan. Upon receiving the request, the Public Employees Retirement
10 Board shall transfer the amounts directly to the optional retirement plan and
11 shall terminate the membership of the employee in the individual account
12 program.

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

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

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

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

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

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

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

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

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

24 **“SECTION 21. (1) The amendments to ORS 238A.320, 238A.330,**
25 **238A.340, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 13**
26 **to 20 of this 2017 Act become operative on January 1, 2018.**

27 **“(2) The Public Employees Retirement Board may take any action**
28 **before the operative date specified in subsection (1) of this section to**
29 **enable the board to exercise, on and after the operative date specified**
30 **in subsection (1) of this section, all the duties, functions and powers**

1 conferred on the board by the amendments to ORS 238A.320, 238A.330,
2 238A.340, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 13
3 to 20 of this 2017 Act.

4

5

“(Multiplication factor)”

6

7 **“SECTION 22.** ORS 238.300 is amended to read:

8 “238.300. Upon retiring from service at normal retirement age or there-
9 after, a member of the system shall receive a service retirement allowance
10 which shall consist of the following annuity and pensions:

11 “(1) A refund annuity which shall be the actuarial equivalent of accu-
12 mulated contributions, if any, by the member and interest thereon credited
13 at the time of retirement, which annuity shall provide an allowance payable
14 during the life of the member and at death a lump sum equal in amount to
15 the difference between accumulated contributions at the time of retirement
16 and the sum of the annuity payments actually made to the member during
17 life shall be paid to such person, if any, as the member nominates by written
18 designation duly acknowledged and filed with the board or shall otherwise
19 be paid according to the provisions of this chapter for disposal of an amount
20 credited to the member account of a member at the time of death in the event
21 the member designates no beneficiary to receive the amount or no such
22 beneficiary is able to receive the amount. If death of the member occurs be-
23 fore the first payment is due, the member account of the member shall be
24 treated as though death had occurred before retirement.

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

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

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

5 “(ii) **1.2 percent of final average salary multiplied by the number**
6 **of years of membership in the system as a police officer or firefighter**
7 **before the effective date of retirement and on and after January 1,**
8 **2018.**

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

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

14 “(ii) **One percent of final average salary multiplied by the number**
15 **of years of membership in the system as other than a police officer**
16 **or firefighter before the effective date of retirement and on and after**
17 **January 1, 2018.**

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

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

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

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

29 “(B) For a member who made contributions before August 21, 1981, the
30 equivalent of a pension computed pursuant to this subsection as it existed

1 immediately before that date.

2 “(c) As used in this subsection, ‘number of years of membership’ means
3 the number of full years of creditable service plus any remaining fraction
4 of a year of creditable service. Except as otherwise provided in this para-
5 graph, in determining a remaining fraction a full month shall be considered
6 as one-twelfth of a year and a major fraction of a month shall be considered
7 as a full month. Membership of a school district employee, an employee of
8 an institution of higher education engaged in teaching or other school ac-
9 tivity or an employee of the Department of Human Services, the Oregon
10 Youth Authority, the Department of Corrections or the State Board of Edu-
11 cation engaged in teaching or other school activity at an institution super-
12 vised by the authority, board or department, for all portions of a school year
13 in a calendar year in which the district school, institution of higher educa-
14 tion or school activity at an institution so supervised in which the member
15 is employed is normally in session shall be considered as a full one-half year
16 of membership. The number of years of membership of a member who re-
17 ceived a refund of contributions as provided in ORS 237.976 (2) is limited to
18 the number of years after the day before the date on which the refund was
19 received. The number of years of membership of a member who is separated,
20 for any reason other than death or disability, from all service entitling the
21 member to membership in the system, who withdraws the amount credited
22 to the member account of the member in the fund during absence from such
23 service and who thereafter reenters the service of an employer participating
24 in the system but does not repay the amount so withdrawn as provided in
25 this chapter, is limited to the number of years after the day before the date
26 of so reentering.

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

1 earnings on the fund. For purposes of computing years of ‘creditable
2 service,’ full months and major fractions of a month shall be considered to
3 be one-twelfth of a year and shall be added to all full years. ‘Creditable
4 service’ includes all retirement credit received by a member.

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

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

10 “(a) Persons engaged as independent contractors.

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

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

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

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

26 “(9) ‘Final average salary’ means whichever of the following is [*greater*]
27 **greatest:**

28 “(a) The average salary per calendar year paid by one or more partic-
29 ipating public employers to an employee who is an active member of the
30 system in three of the calendar years of membership before the effective date

1 of retirement of the employee **and before January 1, 2018**, in which three
2 years the employee was paid the highest salary. The three calendar years in
3 which the employee was paid the largest total salary may include calendar
4 years in which the employee was employed for less than a full calendar year.
5 If the number of calendar years of active membership before the effective
6 date of retirement of the employee is three or fewer, the final average salary
7 for the employee is the average salary per calendar year paid by one or more
8 participating public employers to the employee in all of those years, without
9 regard to whether the employee was employed for the full calendar year.

10 **“(b) The average salary per calendar year paid by one or more par-**
11 **ticipating public employers to an employee who is an active member**
12 **of the system in five of the calendar years of membership before the**
13 **effective date of retirement of the employee, in which five years the**
14 **employee was paid the highest salary. The five calendar years in which**
15 **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**
17 **year. If the number of calendar years of active membership before the**
18 **effective date of retirement of the employee is five or fewer, the final**
19 **average salary for the employee is the average salary per calendar year**
20 **paid by one or more participating public employers to the employee in**
21 **all of those years, without regard to whether the employee was em-**
22 **ployed for the full calendar year.**

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

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

30 **“(10) ‘Firefighter’ does not include a volunteer firefighter, but does in-**

1 clude:

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

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

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

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

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

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

16 “(15) ‘Member’ means a person who has established membership in the
17 system and whose membership has not been terminated as described in ORS
18 238.095. ‘Member’ includes active, inactive and retired members.

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

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

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

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

30 “(18) ‘Pension’ means annual payments for life derived from contributions

1 by one or more public employers.

2 “(19) ‘Police officer’ includes:

3 “(a) Employees of institutions defined in ORS 421.005 as Department of
4 Corrections institutions whose duties, as assigned by the Director of the
5 Department of Corrections, include the custody of persons committed to the
6 custody of or transferred to the Department of Corrections and employees
7 of the Department of Corrections who were classified as police officers on
8 or before July 27, 1989, whether or not such classification was authorized
9 by law.

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

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

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

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

19 “(f) Police officers who are commissioned by a university under ORS
20 352.121 or 353.125 and who are classified as police officers by the university.

21 “(g) Parole and probation officers employed by the Department of Cor-
22 rections, parole and probation officers who are transferred to county em-
23 ployment under ORS 423.549 and adult parole and probation officers, as
24 defined in ORS 181A.355, who are classified as police officers for the pur-
25 poses of this chapter by the county governing body. If a county classifies
26 adult parole and probation officers as police officers for the purposes of this
27 chapter, and the employees so classified are represented by a labor organ-
28 ization, any proposal by the county to change that classification or to cease
29 to classify adult parole and probation officers as police officers for the pur-
30 poses of this chapter is a mandatory subject of bargaining.

- 1 “(h) Police officers appointed under ORS 276.021 or 276.023.
- 2 “(i) Employees of the Port of Portland who are classified as airport police
3 by the Board of Commissioners of the Port of Portland.
- 4 “(j) Employees of the State Department of Agriculture who are classified
5 as livestock police officers by the Director of Agriculture.
- 6 “(k) Employees of the Department of Public Safety Standards and Train-
7 ing who are classified by the department as other than secretarial or clerical
8 personnel.
- 9 “(L) Investigators of the Criminal Justice Division of the Department of
10 Justice.
- 11 “(m) Corrections officers as defined in ORS 181A.355.
- 12 “(n) Employees of the Oregon State Lottery Commission who are classi-
13 fied by the Director of the Oregon State Lottery as enforcement agents pur-
14 suant to ORS 461.110.
- 15 “(o) The Director of the Department of Corrections.
- 16 “(p) An employee who for seven consecutive years has been classified as
17 a police officer as defined by this section, and who is employed or transferred
18 by the Department of Corrections to fill a position designated by the Direc-
19 tor of the Department of Corrections as being eligible for police officer sta-
20 tus.
- 21 “(q) An employee of the Department of Corrections classified as a police
22 officer on or prior to July 27, 1989, whether or not that classification was
23 authorized by law, as long as the employee remains in the position held on
24 July 27, 1989. The initial classification of an employee under a system im-
25 plemented pursuant to ORS 240.190 does not affect police officer status.
- 26 “(r) Employees of a school district who are appointed and duly sworn
27 members of a law enforcement agency of the district as provided in ORS
28 332.531 or otherwise employed full-time as police officers commissioned by
29 the district.
- 30 “(s) Employees at youth correction facilities and juvenile detention facil-

1 ities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required
2 to hold valid Oregon teaching licenses and who have supervisory, control or
3 teaching responsibilities over juveniles committed to the custody of the De-
4 partment of Corrections or the Oregon Youth Authority.

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

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

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

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

16 “(21) ‘Public employer’ means the state, one of its agencies, any city,
17 county, or municipal or public corporation, any political subdivision of the
18 state or any instrumentality thereof, or an agency created by one or more
19 such governmental organizations to provide governmental services. For pur-
20 poses of this chapter, such agency created by one or more governmental or-
21 ganizations is a governmental instrumentality and a legal entity with power
22 to enter into contracts, hold property and sue and be sued.

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

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

30 “(24) ‘Retired member’ means a member who is retired for service or dis-

1 ability.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 “(F) Any retirement incentive, retirement severance pay, retirement bonus
30 or retirement gratuitous payment;

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

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

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

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

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

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

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

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

21 **“SECTION 25.** ORS 238.350 is amended to read:

22 “238.350. (1)(a) Upon the request by a public employer that its employees
23 be compensated for accumulated unused sick leave with pay in the form of
24 increased retirement benefits upon service or disability retirement, the board
25 shall establish a procedure for adding to the gross amount of salary used in
26 determining final average salary the monetary value of one-half of the ac-
27 cumulated unused sick leave with pay of each retiring employee of the re-
28 questing public employer and shall establish benefits of the retiring employee
29 on the basis of a final average salary reflecting that addition.

30 “(b) For employees of a common school district, a union high school dis-

1 trict, an education service district or an institution of higher education en-
2 gaged in teaching or other school activity, or employees of the school
3 operated under ORS 346.010 engaged in teaching or other school activity,
4 who are employed under contract for a period of less than 12 consecutive
5 months and who are entitled to sick leave with pay of less than 96 hours for
6 a year, each hour of accumulated unused sick leave with pay shall be valued
7 on the basis of the actual number of contract hours of employment during
8 the last year of contributing membership of an employee before retiring and
9 the salary of the employee during the same period. This paragraph does not
10 apply to any employee who is employed under contract for 12 consecutive
11 months in [*any of the three or less years*] **the period or periods** used in de-
12 termining the final average salary of the employee.

13 “(c) For the purpose of this subsection, accumulated unused sick leave
14 with pay includes unused sick leave with pay accumulated by an active
15 member of the system while in the service of any public employer partic-
16 ipating in the system that has the request described in paragraph (a) of this
17 subsection in effect at the time of the member’s separation from the service
18 of the employer, whether that employer is or is not the employer of the
19 member at the time of the member’s retirement.

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

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

28 “(a) Sick leave not credited at the rate actually provided by the public
29 employer may not be considered. The amount of sick leave exceeding an
30 amount credited at the lowest rate in effect for any employee of the public

1 employer who is normally entitled to sick leave, and in any event exceeding
2 an amount credited at a rate of eight hours for each full month worked, may
3 not be considered.

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

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

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

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

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

17 “(A) If any department, bureau or other organizational unit of a public
18 employer maintained formal records of accumulation and use even though
19 the public employer did not require that those records be maintained, the
20 accumulated unused sick leave shall be considered according to those re-
21 cords.

22 “(B) Where the public employer provided sick leave before July 1, 1973,
23 but formal records of accumulation and use were not required or if required,
24 are unavailable or incomplete, or the sick leave was subject to administra-
25 tive limitations on total accumulation or transfer between public employers,
26 accumulated unused sick leave for periods before July 1, 1973, may be con-
27 sidered as equal to 2.675 hours for each full month worked or an amount per
28 month equal to the average monthly accumulation by an employee during the
29 period beginning July 1, 1973, and ending at the time of retirement, which-
30 ever amount is greater, but reduced by the amount of any accumulated un-

1 used sick leave credited to the employee on July 1, 1973.

2 “(g) The written certification of a member or former member of the Leg-
3 islative Assembly shall constitute a formal record of accumulation and use
4 in determining the amount of accumulated unused sick leave of an employee
5 of the Legislative Assembly, either of its houses or any of its committees or
6 officers for periods of employment before July 1, 1981. Sick leave accumu-
7 lated on and after July 1, 1981, by employees of the Legislative Assembly,
8 either of its houses or any of its committees or officers may be considered
9 only to the extent it is supported by records of accumulation and use main-
10 tained by the Legislative Administration Committee, or any statutory,
11 standing, special or interim committee of the Legislative Assembly or either
12 house thereof, or any constitutional or statutory office of the Legislative
13 Assembly or either house thereof, pursuant to a plan adopted formally by the
14 committee or officer.

15 **“(h) Accumulated unused sick leave accrued on or after January 1,**
16 **2018, may not be considered.**

17 “(3)(a) As used in this subsection, ‘legislative employee’ means any person
18 employed by the Legislative Assembly, either of its houses or any of its
19 committees or officers, but does not include a regular employee of a statutory
20 committee or statutory office of the Legislative Assembly described in ORS
21 173.005 (1).

22 “(b) Upon the request of a retiring legislative employee who is a member
23 of the system, and the request of the public employer of the legislative em-
24 ployee, that the legislative employee be compensated for accumulated unused
25 vacation with pay for periods of legislative employment in the form of in-
26 creased retirement benefits upon service or disability retirement, the board
27 shall add to the gross amount of salary used in determining final average
28 salary of the legislative employee the monetary value of one-half of the ac-
29 cumulated unused vacation with pay of the legislative employee and shall
30 establish the benefits of the legislative employee on the basis of a final av-

1 erage salary reflecting that addition.

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

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

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

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

18 “(D) **Vacation accumulated on or after January 1, 2018, may not be**
19 **considered.**

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

26 “**SECTION 26.** ORS 238.435 is amended to read:

27 “238.435. (1) Notwithstanding the definition of ‘salary’ or ‘other advan-
28 tages’ provided by ORS 238.005, for the purpose of calculating the retirement
29 allowance of a person who establishes membership in the system on or after
30 January 1, 1996, as described in ORS 238.430, the Public Employees Retire-

1 ment Board shall not include any lump sum payment for accrued vacation
2 pay made to the member during [*the last 36 calendar months of membership*
3 *before the effective date of retirement of the member, or during any period of*
4 *time taken into account for purposes of determining the three years in which*
5 *the member was paid the highest salary for the purposes of*] **any period of**
6 **time taken into account in** determining the member's final average salary.

7 “(2) Notwithstanding the definition of ‘final average salary’ provided by
8 ORS 238.005, for the purpose of calculating the retirement allowance of a
9 person who establishes membership in the system on or after January 1, 1996,
10 as described in ORS 238.430, and who is not employed by a local government
11 as defined in ORS 174.116, the term ‘final average salary’ means whichever
12 of the following is [*greater*] **greatest**:

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

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

1 **tive membership before the effective date of retirement of the em-**
2 **ployee is five or less, the final average salary for the employee is the**
3 **average salary per calendar year paid to the public employee in all of**
4 **those years, without regard to whether the employee was employed for**
5 **full calendar years.**

6 “[~~(b)~~] (c) One-third of the total salary paid to a public employee who is
7 an active member of the system in the last 36 calendar months of membership
8 before the effective date of retirement of the employee **and before January**
9 **1, 2018.**

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

13 “(3) For the purposes of calculating the final average salary of a member
14 under subsection (2) of this section, the Public Employees Retirement Board
15 shall:

16 “(a) Include any salary paid in or for the calendar month of separation
17 from employment;

18 “(b) Exclude any salary for any pay period before the first full pay period
19 that is included in the three calendar years of membership under subsection
20 (2)(a) of this section **or in the five calendar years of membership under**
21 **subsection (2)(b) of this section** if the three **or five** calendar years were
22 consecutive; and

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

27 “(4) Notwithstanding the definition of ‘final average salary’ provided by
28 ORS 238.005, for the purpose of calculating the retirement allowance of a
29 person who establishes membership in the system on or after January 1, 1996,
30 as described in ORS 238.430, and who is employed by a local government as

1 defined in ORS 174.116, the term ‘final average salary’ means whichever of
2 the following is [*greater*] **greatest**:

3 “(a) The average salary per calendar year earned by a public employee
4 who is an active member of the system in three of the calendar years of
5 membership before the effective date of retirement of the employee **and be-**
6 **fore January 1, 2018**, in which three years the employee earned the highest
7 salary. The three calendar years in which the employee earned the largest
8 total salary may include calendar years in which the employee was employed
9 for less than a full calendar year. If the number of calendar years of active
10 membership before the effective date of retirement of the employee is three
11 or less, the final average salary for the employee is the average salary per
12 calendar year earned by the public employee in all of those years, without
13 regard to whether the employee was employed for full calendar years.

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

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

30 “(d) **One-fifth of the total salary earned by a public employee who**

1 **is an active member of the system in the last 60 calendar months of**
2 **membership before the effective date of retirement of the employee.**

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

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

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

12 **“SECTION 27. The amendments to ORS 238.005, 238.350 and 238.435**
13 **by sections 24 to 26 of this 2017 Act apply only to a member of the**
14 **Public Employees Retirement System whose effective date of retire-**
15 **ment is on or after January 1, 2018.**

16

17 **“(Assumed interest rate for purposes of money match calculation)**

18

19 **“SECTION 28. Section 29 of this 2017 Act is added to and made a**
20 **part of ORS chapter 238.**

21 **“SECTION 29. For purposes of calculating the actuarial equivalent**
22 **of the annuity provided by the accumulated contributions of the**
23 **member under ORS 238.300 (2)(b)(A), the Public Employees Retirement**
24 **Board shall use an assumed interest rate of 3.5 percent.**

25 **“SECTION 30. Section 29 of this 2017 Act applies only to members**
26 **of the Public Employees Retirement System whose effective date of**
27 **retirement is on or after January 1, 2018.**

28

29 **“(Reduction of employer rates)**

30

1 **“SECTION 31. The Public Employees Retirement Board shall adjust**
2 **the contribution rates of all employers calculated under ORS 238.225**
3 **for the two years beginning on July 1, 2017, so that the rates are equal**
4 **to the rates for the two years beginning on July 1, 2015. The board**
5 **shall issue corrected contribution rate orders to all employers as soon**
6 **as is practicable after the effective date of this 2017 Act. The corrected**
7 **rates are effective for the two years beginning on July 1, 2017.**

8
9 **“(Review by Supreme Court)**

10
11 **“SECTION 32. (1) Jurisdiction is conferred upon the Supreme Court**
12 **to determine in the manner provided by this section whether sections**
13 **21, 23 and 27 to 31 of this 2017 Act and the amendments to ORS 238.005,**
14 **238.300, 238.350, 238.435, 238.605, 238.670, 238A.320, 238A.330, 238A.340,**
15 **238A.350, 238A.375, 238A.410, 243.800, 291.216 or 341.551 by sections 10 to**
16 **20, 22 and 24 to 26 of this 2017 Act breach any contract between mem-**
17 **bers of the Public Employees Retirement System and their employers**
18 **or violate any provision of the Oregon Constitution or of the United**
19 **States Constitution, including but not limited to impairment of con-**
20 **tract rights of members of the Public Employees Retirement System**
21 **under Article I, section 21, of the Oregon Constitution, or Article I,**
22 **section 10, clause 1, of the United States Constitution.**

23 **“(2) A person who is adversely affected by sections 21, 23 and 27 to**
24 **31 of this 2017 Act and the amendments to ORS 238.005, 238.300, 238.350,**
25 **238.435, 238.605, 238.670, 238A.320, 238A.330, 238A.340, 238A.350, 238A.375,**
26 **238A.410, 243.800, 291.216 or 341.551 by sections 10 to 20, 22 and 24 to 26**
27 **of this 2017 Act or who will be adversely affected by sections 21, 23 and**
28 **27 to 31 of this 2017 Act and the amendments to ORS 238.005, 238.300,**
29 **238.350, 238.435, 238.605, 238.670, 238A.320, 238A.330, 238A.340, 238A.350,**
30 **238A.375, 238A.410, 243.800, 291.216 or 341.551 by sections 10 to 20, 22 and**

1 24 to 26 of this 2017 Act may institute a proceeding for review by filing
2 with the Supreme Court a petition that meets the following require-
3 ments:

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

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

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

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

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

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

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

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

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

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

30 “(8) The Supreme Court may not award attorney fees to a petitioner

1 **in a proceeding under this section.**

2
3 **“(Provisions do not create contract rights)**

4
5 **“SECTION 33. Sections 21, 23 and 27 to 31 of this 2017 Act and the**
6 **amendments to ORS 238.005, 238.300, 238.350, 238.435, 238.605, 238.670,**
7 **238A.320, 238A.330, 238A.340, 238A.350, 238A.375, 238A.410, 243.800, 291.216**
8 **or 341.551 by sections 10 to 20, 22 and 24 to 26 of this 2017 Act do not**
9 **constitute a statutory contractual promise.”.**

10 In line 43, delete “13” and insert “34” and delete “14” and insert “35”.

11 In line 45, delete “14” and insert “35”.

12 On page 9, line 15, delete “15” and insert “36”.

13 On page 11, line 29, delete “16” and insert “37”.

14 On page 13, line 7, delete “17” and insert “38”.

15 In line 44, delete “18” and insert “39”.

16 On page 15, line 3, delete “19” and insert “40”.

17 In line 12, delete “20” and insert “41”.

18 In line 40, delete “21” and insert “42”.

19 On page 16, line 44, delete “22” and insert “43”.

20 On page 17, line 39, delete “23” and insert “44”.

21 On page 18, line 8, delete “24” and insert “45”.

22 In line 9, delete “15 to 23” and insert “36 to 44”.

23 In line 16, delete “15 to 23” and insert “36 to 44”.

24 Delete lines 18 through 45 and delete pages 19 through 24 and insert:

25
26 **“PUBLIC EMPLOYEE BENEFIT BOARD**

27
28 **“SECTION 46. (1) The Public Employee Benefit Board is created in**
29 **the Oregon Health Authority to carry out the provisions of ORS 243.105**
30 **to 243.285, 243.860 to 243.886 and 292.051. The duties, functions and**

1 powers of the Public Employees' Benefit Board and the Oregon Edu-
2 cators Benefit Board are transferred to the Public Employee Benefit
3 Board.

4 “(2) Employees of the Public Employees' Benefit Board and the
5 Oregon Educators Benefit Board who are engaged primarily in the
6 duties, functions and powers of each board on the operative date of
7 this section shall be transferred to the board. The executive director
8 of the Public Employees' Benefit Board and the executive director of
9 the Oregon Educators Benefit Board shall, beginning on the operative
10 date of this section, serve jointly as executive directors of the board
11 until the transition team created under section 63 of this 2017 Act ap-
12 points a single executive director for the board and shall take pos-
13 session of the records and property of the Public Employees' Benefit
14 Board and the Oregon Educators Benefit Board and take charge of
15 employees of the boards transferred under this subsection.

16 “(3) The board shall consist of 17 voting members and two nonvot-
17 ing members. One of the voting members is an ex officio member and
18 16 are appointed by the Governor. The voting members shall be:

19 “(a) Three members representing the state as an employer and
20 management employees, who shall be as follows:

21 “(A) The Director of the Oregon Health Authority or a designee of
22 the director; and

23 “(B) Two management employees appointed by the Governor from
24 areas of state government other than the Oregon Health Authority;

25 “(b) Four members appointed by the Governor and representing
26 nonmanagement representable employees, who shall be as follows:

27 “(A) Two persons from the largest employee representative unit;

28 “(B) One person from the second largest employee representative
29 unit; and

30 “(C) One person from representable employees not represented by

1 **employee representative units described in subparagraphs (A) and (B)**
2 **of this paragraph;**

3 **“(c) Two members appointed by the Governor and representing**
4 **district boards;**

5 **“(d) Two members appointed by the Governor and representing**
6 **district management;**

7 **“(e) Two members appointed by the Governor and representing**
8 **nonmanagement district employees from the largest labor organiza-**
9 **tion representing district employees;**

10 **“(f) One member appointed by the Governor and representing non-**
11 **management district employees from the second largest labor organ-**
12 **ization representing district employees;**

13 **“(g) One member appointed by the Governor and representing non-**
14 **management district employees who are not represented by labor or-**
15 **ganizations described in paragraphs (e) and (f) of this subsection; and**

16 **“(h) Two members appointed by the Governor and having expertise**
17 **in health care and health insurance.**

18 **“(4) The President of the Senate shall appoint one member of the**
19 **Senate and the Speaker of the House shall appoint one member of the**
20 **House of Representatives to serve as nonvoting advisory members of**
21 **the board.**

22 **“(5) The members serving on the Public Employees’ Benefit Board**
23 **and the Oregon Educators Benefit Board on the operative date of this**
24 **section shall be transferred to the board for the remainder of their**
25 **respective terms. Upon the expiration of the term of any member of**
26 **the board, the appointing authority may reappoint the member to that**
27 **position on the board or may appoint a new member to that position**
28 **under subsection (8) of this section.**

29 **“(6)(a) If the governing body of a local government elects to par-**
30 **ticipate in a benefit plan offered by the board, in addition to the**

1 members appointed under subsection (3) of this section, the Governor
2 shall appoint two voting members, one of whom represents local gov-
3 ernment management and one of whom represents local government
4 nonmanagement employees.

5 “(b) After the appointment of members under paragraph (a) of this
6 subsection, if the number of eligible employees of a local government
7 or local governments enrolled in a benefit plan or plans offered by the
8 board exceeds 25,000, the Governor shall appoint two additional voting
9 members, one of whom represents local government management and
10 one of whom represents local government nonmanagement employees.

11 “(c) After the appointment of members under paragraphs (a) and
12 (b) of this subsection, for every additional 25,000 eligible employees of
13 a local government or local governments enrolled in a benefit plan or
14 plans offered by the board, the Governor shall appoint one additional
15 voting member representing local government management and one
16 additional voting member representing local government nonmanage-
17 ment employees.

18 “(7) A maximum of three members may be appointed to represent
19 local government management and a maximum of three members may
20 be appointed to represent local government nonmanagement employ-
21 ees.

22 “(8) The term of office of each member is four years, but a member
23 serves at the pleasure of the appointing authority. Before the expira-
24 tion of the term of a member, the appointing authority shall appoint
25 a successor to take office upon the date of that expiration. A member
26 is eligible for reappointment. If there is a vacancy for any cause, the
27 appointing authority shall make an appointment to become imme-
28 diately effective for the unexpired term.

29 “(9) A member of the board is not entitled to compensation, but
30 may be reimbursed from funds available to the board for actual and

1 necessary travel and other expenses incurred by the member in the
2 performance of the member's official duties in the manner and
3 amount provided in ORS 292.495.

4 “(10) The board shall select one of its members as chairperson and
5 another as vice chairperson, for such terms and with duties and pow-
6 ers necessary for the performance of the functions of such offices as
7 the board determines.

8 “(11) A majority of the members of the board constitutes a quorum
9 for the transaction of business.

10 “(12) The board shall meet at times and places specified by the call
11 of the chairperson or of a majority of the members of the board.

12 “(13) The Governor's appointments of members to the board are
13 subject to confirmation by the Senate in the manner prescribed in ORS
14 171.562 and 171.565.

15 “SECTION 47. (1) The Public Employee Benefit Board shall pre-
16 scribe rules for the conduct of its business and for carrying out ORS
17 243.256. The board shall study all matters connected with the providing
18 of adequate benefit plan coverage for eligible employees on the best
19 basis possible with relation both to the welfare of the employees and
20 to the state, school districts and local governments. The board shall
21 design benefits, devise specifications, analyze carrier responses to ad-
22 vertisements for bids and decide on the award of contracts. Contracts
23 shall be signed by the chairperson on behalf of the board.

24 “(2) In carrying out its duties under subsection (1) of this section,
25 the goal of the board shall be to provide a high quality plan of health
26 and other benefits for employees at a cost affordable to both the em-
27 ployer and the employees.

28 “(3) Subject to ORS chapter 183, the board may make rules not in-
29 consistent with ORS 243.105 to 243.285, 243.860 to 243.866 and 292.051 to
30 determine the terms and conditions of eligible employee participation

1 and coverage.

2 “(4) The board shall prepare specifications, invite bids and take
3 actions necessary to award contracts for health benefit plan and dental
4 benefit plan coverage of eligible employees in accordance with the
5 criteria set forth in ORS 243.135 and 243.866.

6 “(5) The executive director of the board shall report to the Director
7 of the Oregon Health Authority.

8 “(6) The board may retain consultants, brokers or other advisory
9 personnel when necessary and, subject to the State Personnel Re-
10 lations Law, shall employ such personnel as are required to perform
11 the functions of the board.

12 **“SECTION 48.** (1) The Public Employee Benefit Fund is created in
13 the State Treasury, separate and distinct from the General Fund.
14 Moneys in the Public Employee Benefit Fund are continuously appro-
15 priated to the Public Employee Benefit Board for the administration
16 of ORS 243.105 to 243.285, 243.860 to 243.886 and 292.051.

17 “(2) Subject to ORS 243.185 and 243.882, an amount not to exceed two
18 percent of the monthly employer and employee contributions for ben-
19 efit plans available under ORS 243.105 to 243.285, 243.860 to 243.886 and
20 292.051 shall be deposited to the Public Employee Benefit Fund.

21 **“SECTION 49.** (1) The Public Employee Revolving Fund is created
22 separate and distinct from the General Fund. The balances of the
23 Public Employee Revolving Fund are continuously appropriated to
24 cover expenses incurred in connection with the administration of ORS
25 243.105 to 243.285, 243.860 to 243.886 and 292.051. Assets of the Public
26 Employee Revolving Fund may be retained for limited periods of time
27 as established by the Public Employee Benefit Board by rule. Among
28 other purposes, the board may retain the funds to control expendi-
29 tures, stabilize benefit premium rates and self-insure. The board may
30 establish subaccounts within the Public Employee Revolving Fund.

1 “(2) There is appropriated to the Public Employee Revolving Fund
2 all unused employer contributions for employee benefits and all re-
3 funds, dividends, unused premiums and other payments attributable
4 to any employee contribution or employer contribution made from any
5 carrier or contractor that has provided employee benefits administered
6 by the board, and all interest earned on such moneys.

7 “SECTION 50. (1) The Public Employees’ Benefit Account created
8 in ORS 243.165 and the Oregon Educators Benefit Account created in
9 ORS 243.880 are abolished and all and the unexpended balances in the
10 accounts on the operative date of this section are transferred to the
11 Public Employee Benefit Fund created in section 48 of this 2017 Act
12 and are available for expenditure by the Public Employee Benefit
13 Board for the purpose of administering and enforcing the duties,
14 functions and powers of the board under ORS 243.105 to 243.285, 243.860
15 to 243.886 and 292.051.

16 “(2) The expenditure classifications, if any, established by Acts au-
17 thORIZING or limiting expenditures by the Public Employees’ Benefit
18 Board and the Oregon Educators Benefit Board remain applicable to
19 expenditures by the Public Employee Benefit Board under this section.

20 “(3) The Public Employees’ Revolving Fund created in ORS 243.167
21 and the Oregon Educators Revolving Fund created in ORS 243.884 are
22 abolished and all and the unexpended balances in the funds on the ef-
23 fective date of this section are transferred to the Public Employee
24 Revolving Fund created in section 49 of this 2017 Act and are available
25 for expenditure by the Public Employee Benefit Board for the purposes
26 described in section 49 of this 2017 Act.

27 “SECTION 51. (1) The transfer of duties, functions and powers to
28 the Public Employee Benefit Board by section 46 of this 2017 Act does
29 not affect any action, proceeding or prosecution involving or with re-
30 spect to such duties, functions and powers begun before and pending

1 at the time of the transfer, except that the Public Employee Benefit
2 Board is substituted for the Public Employee's Benefit Board or the
3 Oregon Educators Benefit Board in the action, proceeding or prose-
4 cution.

5 “(2) Nothing in sections 46 to 54 of this 2017 Act or the amendments
6 to ORS 243.105, 243.135, 243.860, 243.866 by sections 59 to 61 of this 2017
7 Act or the repeal of 243.061, 243.066, 243.125, 243.165, 243.167, 243.862,
8 243.864, 243.879, 243.880 and 243.884 by section 68 of this 2017 Act relieves
9 a person of a liability, duty or obligation accruing under or with re-
10 spect to the duties, functions and powers transferred by section 46 of
11 this 2017 Act. The Public Employee Benefit Board may undertake the
12 collection or enforcement of any such liability, duty or obligation.

13 “(3) The rights and obligations of the Public Employees' Benefit
14 Board and the Oregon Educators Benefit Board legally incurred under
15 contracts, leases and business transactions executed, entered into or
16 begun before the operative date of this section are transferred to the
17 Public Employee Benefit Board. For the purpose of succession to these
18 rights and obligations, the Public Employee Benefit Board is a con-
19 tinuation of the Public Employees' Benefit Board and the Oregon Ed-
20 ucators Benefit Board and not a new authority.

21 “SECTION 52. Notwithstanding the transfer of duties, functions and
22 powers by section 46 of this 2017 Act, the rules of the Public
23 Employees' Benefit Board and the Oregon Educators Benefit Board in
24 effect on the operative date of section 46 of this 2017 Act continue in
25 effect until superseded or repealed by rules of the Public Employee
26 Benefit Board. References in rules of the Public Employees' Benefit
27 Board to the Public Employee's Benefit Board or to an officer or em-
28 ployee of the board and references in the rules of the Oregon Educa-
29 tors Benefit Board to the Oregon Educators Benefit Board or an officer
30 or employee of the Oregon Educators Benefit Board are considered to

1 be references to the Public Employee Benefit Board or an officer or
2 employee of the Public Employee Benefit Board.

3 **“SECTION 53. (1) Whenever, in any statutory law or resolution of**
4 **the Legislative Assembly or in any rule, document, record or pro-**
5 **ceeding authorized by the Legislative Assembly, reference is made to**
6 **the Public Employees’ Benefit Board or an officer or employee of the**
7 **Public Employees’ Benefit Board, the reference is considered to be a**
8 **reference to the Public Employee Benefit Board or an officer or em-**
9 **ployee of the Public Employee Benefit Board.**

10 **“(2) Whenever, in any statutory law or resolution of the Legislative**
11 **Assembly or in any rule, document, record or proceeding authorized**
12 **by the Legislative Assembly, reference is made to the Oregon Educa-**
13 **tors Benefit Board or an officer or employee of the Oregon Educators**
14 **Benefit Board, the reference is considered to be a reference to the**
15 **Public Employee Benefit Board or an officer or employee of the Public**
16 **Employee Benefit Board.**

17 **“SECTION 54. For the purpose of harmonizing and clarifying stat-**
18 **utory law, the Legislative Counsel may substitute for words designat-**
19 **ing the:**

20 **“(1) ‘Public Employees’ Benefit Board’ or its officers, wherever they**
21 **occur in statutory law, words designating the ‘Public Employee Bene-**
22 **fit Board’ or its officers.**

23 **“(2) ‘Public Employees’ Benefit Account,’ wherever they occur in**
24 **statutory law, words designating the ‘Public Employee Benefit Ac-**
25 **count.**

26 **“(3) ‘Public Employees’ Revolving Fund,’ wherever they occur in**
27 **statutory law, words designating the ‘Public Employee Revolving**
28 **Fund.**

29 **“(4) ‘Oregon Educators Benefit Board’ or its officers, wherever they**
30 **occur in statutory law, words designating the ‘Public Employee Bene-**

1 fit Board' or its officers.

2 “(5) ‘Oregon Educators Benefit Account,’ wherever they occur in
3 statutory law, words designating the ‘Public Employee Benefit Ac-
4 count.’

5 “(6) ‘Oregon Educators Revolving Fund,’ wherever they occur in
6 statutory law, words designating the ‘Public Employee Revolving
7 Fund.’

8 “(7) ‘Public Employees’ Benefit Board’ occurring in a sentence with
9 or immediately preceded or succeeded by ‘Oregon Educators Board’ in
10 statutory law, words designating the ‘Public Employee Benefit
11 Board.’

12 **“SECTION 55. (1) The maximum employer contribution for a health
13 benefit plan offered under ORS 243.135 or 243.866 may not exceed 110
14 percent of the national average of employers’ contributions to state
15 and school employees’ employee-only health benefit plans as deter-
16 mined by the Oregon Department of Administrative Services office
17 responsible for conducting economic analysis. The maximum employer
18 contribution for dependent coverage for spouses or children of an
19 employee is the lesser of:**

20 **“(a) The national average paid for dependent coverage by state and
21 school employees; and**

22 **“(b) 25 percent of the additional premium cost to obtain dependent
23 coverage.**

24 **“(2) An eligible employee who is enrolled in a health benefit plan
25 other than a plan described in ORS 243.135 or 243.866 shall, upon re-
26 quest, be paid an amount determined by a formula adopted by the
27 Public Employee Benefit Board.**

28 **“SECTION 56. Notwithstanding section 55 of this 2017 Act, if the
29 employer contribution for public employee health benefit plans on the
30 operative date of section 55 of this 2017 Act exceeds the maximum**

1 amounts expressed in section 55 of this 2017 Act, the employer contri-
2 bution shall remain the same amount until the plan year in which the
3 amount is less than the maximum expressed in section 55 of this 2017
4 Act.

5 **“SECTION 57. The executive director of the Public Employees’**
6 **Benefit Board and the executive director of the Oregon Educators**
7 **Benefit Board may take any action before the operative date of section**
8 **46 of this 2017 Act that is necessary to enable the executive directors**
9 **to exercise, on and after the operative date of section 46 of this 2017**
10 **Act, the duties, functions and powers transferred under section 46 of**
11 **this 2017 Act.**

12 **“SECTION 58. ORS 243.105 is amended to read:**

13 **“243.105. As used in ORS 243.105 to 243.285 and section 46 of this 2017**
14 **Act, unless the context requires otherwise:**

15 **“(1) ‘Benefit plan’ includes, but is not limited to:**

16 **“(a) Contracts for insurance or other benefits, including medical, dental,**
17 **vision, life, disability and other health care recognized by state law, and re-**
18 **lated services and supplies;**

19 **“(b) Comparable benefits for employees who rely on spiritual means of**
20 **healing; and**

21 **“(c) Self-insurance programs managed by the Public Employees’ Benefit**
22 **Board.**

23 **“(2) ‘Board’ means the Public Employees’ Benefit Board.**

24 **“(3) ‘Carrier’ means an insurance company or health care service con-**
25 **tractor holding a valid certificate of authority from the Director of the De-**
26 **partment of Consumer and Business Services, or two or more companies or**
27 **contractors acting together pursuant to a joint venture, partnership or other**
28 **joint means of operation, or a board-approved guarantor of benefit plan**
29 **coverage and compensation.**

30 **“(4)(a) ‘Eligible employee’ means an officer or employee of a state agency**

1 or local government who elects to participate in one of the group benefit
2 plans described in ORS 243.135. The term includes, but is not limited to, state
3 officers and employees in the exempt, unclassified and classified service, and
4 state officers and employees, whether or not retired, who:

5 “(A) Are receiving a service retirement allowance, a disability retirement
6 allowance or a pension under the Public Employees Retirement System or
7 are receiving a service retirement allowance, a disability retirement allow-
8 ance or a pension under any other retirement or disability benefit plan or
9 system offered by the State of Oregon for its officers and employees;

10 “(B) Are eligible to receive a service retirement allowance under the
11 Public Employees Retirement System and have reached earliest retirement
12 age under ORS chapter 238;

13 “(C) Are eligible to receive a pension under ORS 238A.100 to 238A.250,
14 and have reached earliest retirement age as described in ORS 238A.165; or

15 “(D) Are eligible to receive a service retirement allowance or pension
16 under another retirement benefit plan or system offered by the State of
17 Oregon and have attained earliest retirement age under the plan or system.

18 “(b) ‘Eligible employee’ does not include individuals:

19 “(A) Engaged as independent contractors;

20 “(B) Whose periods of employment in emergency work are on an inter-
21 mittent or irregular basis;

22 “(C) Who are employed on less than half-time basis unless the individuals
23 are employed in positions classified as job-sharing positions, unless the in-
24 dividuals are defined as eligible under rules of the board;

25 “(D) Appointed under ORS 240.309;

26 “(E) Provided sheltered employment or make-work by the state in an em-
27 ployment or industries program maintained for the benefit of such individ-
28 uals;

29 “(F) Provided student health care services in conjunction with their en-
30 rollment as students at a public university listed in ORS 352.002; or

1 “(G) Who are members of a collective bargaining unit that represents
2 police officers or firefighters.

3 “(5) ‘Family member’ means an eligible employee’s spouse and any un-
4 married child or stepchild within age limits and other conditions imposed
5 by the board with regard to unmarried children or stepchildren.

6 “(6) ‘Local government’ means any city, county or special district in this
7 state or any intergovernmental entity created under ORS chapter 190.

8 “(7) ‘Payroll disbursing officer’ means the officer or official authorized to
9 disburse moneys in payment of salaries and wages of employees of a state
10 agency or local government.

11 “(8) ‘Premium’ means the monthly or other periodic charge for a benefit
12 plan.

13 “(9) ‘State agency’ means every state officer, board, commission, depart-
14 ment or other activity of state government.

15 “**SECTION 59.** ORS 243.135, as amended by section 4, chapter 389, Oregon
16 Laws 2015, is amended to read:

17 “243.135. (1) Notwithstanding any other benefit plan contracted for and
18 offered by the Public [*Employees*] **Employee** Benefit Board, the board shall
19 contract for a health benefit plan or plans [*best designed to meet the needs*
20 *and provide for the welfare of eligible employees, the state and the local gov-*
21 *ernments. In considering whether to enter into a contract for a plan, the board*
22 *shall place emphasis on:]*

23 “[*(a) Employee choice among high quality plans;*]

24 “[*(b) A competitive marketplace;*]

25 “[*(c) Plan performance and information;*]

26 “[*(d) Employer flexibility in plan design and contracting;*]

27 “[*(e) Quality customer service;*]

28 “[*(f) Creativity and innovation;*]

29 “[*(g) Plan benefits as part of total employee compensation;*]

30 “[*(h) The improvement of employee health; and]*

1 “[i] *Health outcome and quality measures, described in ORS 413.017 (4),*
2 *that are reported by the plan.*] **that offer to eligible employees a range of**
3 **health benefit options with different costs including high deductible**
4 **plans, comprehensive plans and at least one plan for which the pre-**
5 **mium is equal to or less than the employer contribution for**
6 **employee-only coverage. Each plan offered by the board must:**

7 **“(a) Use a four-tier premium structure based on whether the plan**
8 **is for the employee only, the employee and the employee’s partner, the**
9 **employee and the employee’s child or children or the employee and the**
10 **employee’s family.**

11 **“(b) Have benefit structures designed to encourage eligible employ-**
12 **ees to seek the most appropriate level of care, using the most efficient**
13 **health care providers or managed care.**

14 **“(c) Reimburse health care providers using a risk-based arrange-**
15 **ment or alternative payment mechanisms in which the provider shares**
16 **the risk for the cost and quality of care.**

17 **“(d) On a continuing basis implement innovative solutions for con-**
18 **trolling the costs of care.**

19 “(2) The board may approve more than one carrier for each type of plan
20 contracted for and offered but the number of carriers shall be held to a
21 number consistent with adequate service to eligible employees and their
22 family members.

23 “[3] *Where appropriate for a contracted and offered health benefit plan, the*
24 *board shall provide options under which an eligible employee may arrange*
25 *coverage for family members.*]

26 “[4] **(3)** Payroll deductions for costs that are not payable by the state
27 or a local government may be made upon receipt of a signed authorization
28 from the employee indicating an election to participate in the plan or plans
29 selected and the deduction of a certain sum from the employee’s pay.

30 “[5] **(4)** In developing any health benefit plan, the board may provide

1 an option of additional coverage for eligible employees and their family
2 members at an additional cost or premium.

3 “[6] (5) Transfer of enrollment from one plan to another shall be open
4 to all eligible employees and their family members under rules adopted by
5 the board. Because of the special problems that may arise in individual in-
6 stances under comprehensive group practice plan coverage involving accept-
7 able provider-patient relations between a particular panel of providers and
8 particular eligible employees and their family members, the board shall pro-
9 vide a procedure under which any eligible employee may apply at any time
10 to substitute a health service benefit plan for participation in a comprehen-
11 sive group practice benefit plan.

12 “[7] (6) The board shall evaluate a benefit plan that serves a limited
13 geographic region of this state according to the criteria described in sub-
14 section (1) of this section.

15 **“SECTION 60.** ORS 243.860 is amended to read:

16 “243.860. As used in ORS 243.860 to 243.886 **and section 46 of this 2017**
17 **Act**, unless the context requires otherwise:

18 “(1) ‘Benefit plan’ includes but is not limited to:

19 “(a) Contracts for insurance or other benefits, including medical, dental,
20 vision, life, disability and other health care recognized by state law, and re-
21 lated services and supplies;

22 “(b) Self-insurance programs managed by the Oregon Educators Benefit
23 Board; and

24 “(c) Comparable benefits for employees who rely on spiritual means of
25 healing.

26 “(2) ‘Carrier’ means an insurance company or health care service con-
27 tractor holding a valid certificate of authority from the Director of the De-
28 partment of Consumer and Business Services, or two or more companies or
29 contractors acting together pursuant to a joint venture, partnership or other
30 joint means of operation, or a board-approved provider or guarantor of ben-

1 efit plan coverage and compensation.

2 “(3) ‘District’ means a common school district, a union high school dis-
3 trict, an education service district, as defined in ORS 334.003, or a commu-
4 nity college district, as defined in ORS 341.005.

5 “(4)(a) ‘Eligible employee’ includes:

6 “(A) An officer or employee of a district or a local government who elects
7 to participate in one of the benefit plans described in ORS 243.864 to 243.874;
8 and

9 “(B) An officer or employee of a district or a local government, whether
10 or not retired, who:

11 “(i) Is receiving a service retirement allowance, a disability retirement
12 allowance or a pension under the Public Employees Retirement System or is
13 receiving a service retirement allowance, a disability retirement allowance
14 or a pension under any other retirement or disability benefit plan or system
15 offered by the district or local government for its officers and employees;

16 “(ii) Is eligible to receive a service retirement allowance under the Public
17 Employees Retirement System and has reached earliest service retirement
18 age under ORS chapter 238;

19 “(iii) Is eligible to receive a pension under ORS 238A.100 to 238A.250 and
20 has reached earliest retirement age as described in ORS 238A.165; or

21 “(iv) Is eligible to receive a service retirement allowance or pension under
22 any other retirement benefit plan or system offered by the district or local
23 government and has attained earliest retirement age under the plan or sys-
24 tem.

25 “(b) Except as provided in paragraph (a)(B) of this subsection, ‘eligible
26 employee’ does not include an individual:

27 “(A) Engaged as an independent contractor;

28 “(B) Whose periods of employment in emergency work are on an inter-
29 mittent or irregular basis; or

30 “(C) Who is employed on less than a half-time basis unless the individual

1 is employed in a position classified as a job-sharing position or unless the
2 individual is defined as eligible under rules of the Oregon Educators Benefit
3 Board or under a collective bargaining agreement.

4 “(5) ‘Family member’ means an eligible employee’s spouse or domestic
5 partner and any unmarried child or stepchild of an eligible employee within
6 age limits and other conditions imposed by the Oregon Educators Benefit
7 Board with regard to unmarried children or stepchildren.

8 “(6) ‘Local government’ means any city, county or special district in this
9 state.

10 “(7) ‘Payroll disbursing officer’ means the officer or official authorized to
11 disburse moneys in payment of salaries and wages of officers and employees
12 of a district or a local government.

13 “(8) ‘Premium’ means the monthly or other periodic charge, including
14 administrative fees of the Oregon Educators Benefit Board, for a benefit
15 plan.

16 **“SECTION 61.** ORS 243.866, as amended by section 5, chapter 389, Oregon
17 Laws 2015, is amended to read:

18 “243.866. (1) The [*Oregon Educators*] **Public Employee** Benefit Board
19 shall contract for benefit plans [*best designed to meet the needs and provide*
20 *for the welfare of eligible employees, the districts and local governments. In*
21 *considering whether to enter into a contract for a benefit plan, the board shall*
22 *place emphasis on:*]

23 “[*(a) Employee choice among high-quality plans;*]

24 “[*(b) Encouragement of a competitive marketplace;*]

25 “[*(c) Plan performance and information;*]

26 “[*(d) District and local government flexibility in plan design and contract-*
27 *ing;*]

28 “[*(e) Quality customer service;*]

29 “[*(f) Creativity and innovation;*]

30 “[*(g) Plan benefits as part of total employee compensation;*]

1 “[(h) *Improvement of employee health; and*]

2 “[(i) *Health outcome and quality measures, described in ORS 413.017 (4),*
3 *that are reported by the plan.*] **that offer to eligible employees a range of**
4 **health benefit options with different costs including high deductible**
5 **plans, comprehensive plans and at least one plan for which the pre-**
6 **mium is equal to or less than the employer contribution for**
7 **employee-only coverage. Each plan offered by the board must:**

8 “(a) **Use a four-tier premium structure based on whether the plan**
9 **is for the employee only, the employee and the employee’s partner, the**
10 **employee and the employee’s child or children or the employee and the**
11 **employee’s family.**

12 “(b) **Have benefit structures designed to encourage eligible employ-**
13 **ees to seek the most appropriate level of care, using the most efficient**
14 **health care providers or managed care.**

15 “(c) **Reimburse health care providers using a risk-based arrange-**
16 **ment or alternative payment mechanisms in which the provider shares**
17 **the risk for the cost and quality of care.**

18 “(d) **On a continuing basis implement innovative solutions for con-**
19 **trolling the costs of care.**

20 “(2) The board may approve more than one carrier for each type of benefit
21 plan offered, but the board shall limit the number of carriers to a number
22 consistent with adequate service to eligible employees and family members.

23 “[(3) *When appropriate, the board shall provide options under which an*
24 *eligible employee may arrange coverage for family members under a benefit*
25 *plan.*]

26 “[(4)] (3) A district or a local government shall provide that payroll de-
27 ductions for benefit plan costs that are not payable by the district or local
28 government may be made upon receipt of a signed authorization from the
29 employee indicating an election to participate in the benefit plan or plans
30 selected and allowing the deduction of those costs from the employee’s pay.

1 “[5] (4) In developing any benefit plan, the board may provide an option
2 of additional coverage for eligible employees and family members at an ad-
3 ditional premium.

4 “[6] (5) The board shall adopt rules providing that transfer of enrollment
5 from one benefit plan to another is open to all eligible employees and family
6 members. Because of the special problems that may arise involving accepta-
7 ble provider-patient relations between a particular panel of providers and a
8 particular eligible employee or family member under a comprehensive group
9 practice benefit plan, the board shall provide a procedure under which any
10 eligible employee may apply at any time to substitute another benefit plan
11 for participation in a comprehensive group practice benefit plan.

12 “[7] (6) An eligible employee who is retired is not required to participate
13 in a health benefit plan offered under this section in order to obtain dental
14 benefit plan coverage. The board shall establish by rule standards of eligi-
15 bility for retired employees to participate in a dental benefit plan.

16 “[8] (7) The board shall evaluate a benefit plan that serves a limited
17 geographic region of this state according to the criteria described in sub-
18 section (1) of this section.

19 **“SECTION 62.** ORS 442.396 is amended to read:

20 “442.396. An insurer, as defined in ORS 731.106, that contracts with the
21 Oregon Health Authority, including with the Public [*Employees*] **Employee**
22 **Benefit Board** [*and the Oregon Educators Benefit Board*], to provide health
23 insurance coverage for state employees, educators or medical assistance re-
24 cipients must annually attest, on a form and in a manner prescribed by the
25 authority, to its compliance with ORS 243.256, [243.879,] 442.392 and 442.394.
26 A contract with an insurer subject to the requirements of this section may
27 not be renewed without the attestation required by this section.

28 **“SECTION 63. (1) The Governor shall appoint a transition team of**
29 **no more than 11 members, of which no more than three are enrolled**
30 **in or represent individuals enrolled in health benefit plans offered by**

1 **the Public Employees' Benefit Board or the Oregon Educators Benefit**
2 **Board, composed of:**

3 **“(a) The chairpersons of the Public Employees' Benefit Board and**
4 **the Oregon Educators Benefit Board;**

5 **“(b) One or more members of the Governor's health policy staff;**

6 **“(c) One or more representatives of the Oregon Health Authority;**

7 **“(d) One or more individuals representing the health insurance in-**
8 **dustry;**

9 **“(e) One or more individuals representing hospitals; and**

10 **“(f) One individual with expertise in employee benefits.**

11 **“(2) The transition team shall study and make recommendations to**
12 **the Governor and the Legislative Assembly, with respect to health**
13 **benefit plans to be offered by the Public Employee Benefit Board, on**
14 **all of the following:**

15 **“(a) Benefit and plan designs and the relative values of plans;**

16 **“(b) The employer contribution structure;**

17 **“(c) The four-tier premium structure;**

18 **“(d) The formula for the payment described in section 55 (2) of this**
19 **2017 Act;**

20 **“(e) Whether the Public Employee Benefit Board should offer a**
21 **self-insured health benefit plan;**

22 **“(f) The permanent governance structure for the Public Employee**
23 **Benefit Board; and**

24 **“(g) Cost containment strategies to maintain quality care at lower**
25 **cost, including but not limited to:**

26 **“(A) Alternative payment mechanisms;**

27 **“(B) Using narrow provider networks;**

28 **“(C) Using risk-based contracts or global budgets to reimburse the**
29 **costs of health care;**

30 **“(D) Reimbursing the cost of services using reference pricing or**

1 centers of excellence; and

2 “(E) Options for leveraging the state’s purchasing power.

3 “(3) The transition team shall:

4 “(a) Present to the Joint Interim Committee on Ways and Means
5 in September and November of 2017, a progress report on the develop-
6 ment of recommendations and a transition plan to move from the
7 current health benefit plan offerings and competitive bidding process
8 of the Public Employees’ Benefit Board and the Oregon Educators
9 Benefit Board to the offerings and competitive bidding process of the
10 Public Employee Benefit Board.

11 “(b) Present to the Governor and the Legislative Assembly no later
12 than February 1, 2018, its recommendations under subsection (2) of
13 this section and a transition plan to move from the current health
14 benefit plan offerings and competitive bidding process of the Public
15 Employees’ Benefit Board and the Oregon Educators Benefit Board to
16 the offerings and competitive bidding process of the Public Employee
17 Benefit Board.

18 “(c) Recruit and appoint an executive director for the Public Em-
19 ployee Benefit Board.

20 “(4) The expenses of the transition team shall be paid from the
21 Public Employees’ Revolving Fund and the Oregon Educators Revolv-
22 ing Fund based on the relative size of each fund.

23 “SECTION 64. Section 46 of this 2017 Act is amended to read:

24 “**Sec. 46.** (1) The Public Employee Benefit Board is created in the Oregon
25 Health Authority to carry out the provisions of ORS 243.105 to 243.285,
26 243.860 to 243.886 and 292.051. [*The duties, functions and powers of the Public*
27 *Employees’ Benefit Board and the Oregon Educators Benefit Board are trans-*
28 *ferred to the Public Employee Benefit Board.*]

29 “[*(2) Employees of the Public Employees’ Benefit Board and the Oregon*
30 *Educators Benefit Board who are engaged primarily in the duties, functions*

1 *and powers of each board on the operative date of this section shall be trans-*
2 *ferred to the board. The executive director of the Public Employees' Benefit*
3 *Board and the executive director of the Oregon Educators Benefit Board shall,*
4 *beginning on the operative date of this section, serve jointly as executive di-*
5 *rectors of the board until the transition team created under section 63 of this*
6 *2017 Act appoints a single executive director for the board and shall take*
7 *possession of the records and property of the Public Employees' Benefit Board*
8 *and the Oregon Educators Benefit Board and take charge of employees of the*
9 *boards transferred under this subsection.]*

10 “[(3)] **(2)** The board shall consist of 17 voting members and two nonvoting
11 members. One of the voting members is an ex officio member and 16 are ap-
12 pointed by the Governor. The voting members shall be:

13 “(a) Three members representing the state as an employer and manage-
14 ment employees, who shall be as follows:

15 “(A) The Director of the Oregon Health Authority or a designee of the
16 director; and

17 “(B) Two management employees appointed by the Governor from areas
18 of state government other than the Oregon Health Authority;

19 “(b) Four members appointed by the Governor and representing nonman-
20 agement representable employees, who shall be as follows:

21 “(A) Two persons from the largest employee representative unit;

22 “(B) One person from the second largest employee representative unit; and

23 “(C) One person from representable employees not represented by em-
24 ployee representative units described in subparagraphs (A) and (B) of this
25 paragraph;

26 “(c) Two members appointed by the Governor and representing district
27 boards;

28 “(d) Two members appointed by the Governor and representing district
29 management;

30 “(e) Two members appointed by the Governor and representing nonman-

1 agement district employees from the largest labor organization representing
2 district employees;

3 “(f) One member appointed by the Governor and representing nonman-
4 agement district employees from the second largest labor organization re-
5 presenting district employees;

6 “(g) One member appointed by the Governor and representing nonman-
7 agement district employees who are not represented by labor organizations
8 described in paragraphs (e) and (f) of this subsection; and

9 “(h) Two members appointed by the Governor and having expertise in
10 health care and health insurance.

11 “[~~(4)~~] **(3)** The President of the Senate shall appoint one member of the
12 Senate and the Speaker of the House shall appoint one member of the House
13 of Representatives to serve as nonvoting advisory members of the board.

14 “[~~(5)~~] *The members serving on the Public Employees’ Benefit Board and the*
15 *Oregon Educators Benefit Board on the operative date of this section shall be*
16 *transferred to the board for the remainder of their respective terms. Upon the*
17 *expiration of the term of any member of the board, the appointing authority*
18 *may reappoint the member to that position on the board or may appoint a new*
19 *member to that position under subsection (8) of this section.]*

20 “[~~(6)(a)~~] **(4)(a)** If the governing body of a local government elects to par-
21 ticipate in a benefit plan offered by the board, in addition to the members
22 appointed under subsection [~~(3)~~] **(2)** of this section, the Governor shall ap-
23 point two voting members, one of whom represents local government man-
24 agement and one of whom represents local government nonmanagement
25 employees.

26 “(b) After the appointment of members under paragraph (a) of this sub-
27 section, if the number of eligible employees of a local government or local
28 governments enrolled in a benefit plan or plans offered by the board exceeds
29 25,000, the Governor shall appoint two additional voting members, one of
30 whom represents local government management and one of whom represents

1 local government nonmanagement employees.

2 “(c) After the appointment of members under paragraphs (a) and (b) of
3 this subsection, for every additional 25,000 eligible employees of a local
4 government or local governments enrolled in a benefit plan or plans offered
5 by the board, the Governor shall appoint one additional voting member re-
6 presenting local government management and one additional voting member
7 representing local government nonmanagement employees.

8 “[7] (5) A maximum of three members may be appointed to represent
9 local government management and a maximum of three members may be ap-
10 pointed to represent local government nonmanagement employees.

11 “[8] (6) The term of office of each member is four years, but a member
12 serves at the pleasure of the appointing authority. Before the expiration of
13 the term of a member, the appointing authority shall appoint a successor to
14 take office upon the date of that expiration. A member is eligible for reap-
15 pointment. If there is a vacancy for any cause, the appointing authority shall
16 make an appointment to become immediately effective for the unexpired
17 term.

18 “[9] (7) A member of the board is not entitled to compensation, but may
19 be reimbursed from funds available to the board for actual and necessary
20 travel and other expenses incurred by the member in the performance of the
21 member’s official duties in the manner and amount provided in ORS 292.495.

22 “[10] (8) The board shall select one of its members as chairperson and
23 another as vice chairperson, for such terms and with duties and powers
24 necessary for the performance of the functions of such offices as the board
25 determines.

26 “[11] (9) A majority of the members of the board constitutes a quorum
27 for the transaction of business.

28 “[12] (10) The board shall meet at times and places specified by the call
29 of the chairperson or of a majority of the members of the board.

30 “[13] (11) The Governor’s appointments of members to the board are

1 subject to confirmation by the Senate in the manner prescribed in ORS
2 171.562 and 171.565.

3

4

“(Conforming amendments)”

5

6 **“SECTION 65.** ORS 243.221 is amended to read:

7 “243.221. (1) In addition to the powers and duties otherwise provided by
8 law to provide employee benefits, the Public Employees’ Benefit Board may
9 provide, administer and maintain flexible benefit plans under which eligible
10 employees may choose among taxable and nontaxable benefits as provided in
11 the federal Internal Revenue Code.

12 “(2) In providing flexible benefit plans, the board may offer:

13 “(a) Health or dental benefits as provided in ORS [243.125 and] 243.135.

14 “(b) Other insurance benefits as provided in ORS 243.275.

15 “(c) Dependent care assistance as provided in ORS 243.550.

16 “(d) Expense reimbursement as provided in ORS 243.560.

17 “(e) Any other benefit that may be excluded from an employee’s gross
18 income under the federal Internal Revenue Code.

19 “(f) Any part or all of the state or local government contribution for
20 employee benefits in cash to the employee.

21 “(3) In developing flexible benefit plans under this section, the board shall
22 design the plan on the best basis possible with relation to the welfare of
23 employees, the state and the local governments.

24 **“SECTION 66.** ORS 243.874 is amended to read:

25 “243.874. (1) In addition to the powers and duties otherwise provided by
26 law to provide benefit plans for eligible employees, the Oregon Educators
27 Benefit Board may provide and administer flexible benefit plans under which
28 eligible employees may choose among taxable and nontaxable benefits as
29 provided in the federal Internal Revenue Code.

30 “(2) In providing flexible benefit plans, the board may offer:

1 “(a) Health or dental benefits as described in ORS [243.864 and] 243.866.

2 “(b) Other insurance benefits as described in ORS 243.868.

3 “(c) Any other benefit that may be excluded from an employee’s gross
4 income under the federal Internal Revenue Code.

5 “(d) Any part or all of the district or local government contribution for
6 employee benefits in cash to the employee.

7 “(3) In developing flexible benefit plans, the board shall design the plans
8 on the best basis possible with regard to the welfare of the employees and
9 affordability for the districts and local governments.

10 “(4) The board may pay some or all of the cost of administering flexible
11 benefit plans from funds authorized to pay general administrative expenses
12 incurred by the board.

13 “(5) The board shall adopt rules as the board considers necessary for the
14 establishment and administration of flexible benefit plans.

15 “(6) The board may contract with private organizations for administration
16 of flexible benefit plans in accordance with rules adopted under subsection
17 (5) of this section.

18 **“SECTION 67.** ORS 279A.025 is amended to read:

19 “279A.025. (1) Except as provided in subsections (2) to (4) of this section,
20 the Public Contracting Code applies to all public contracting.

21 “(2) The Public Contracting Code does not apply to:

22 “(a) Contracts between a contracting agency and:

23 “(A) Another contracting agency;

24 “(B) The Oregon Health and Science University;

25 “(C) A public university listed in ORS 352.002;

26 “(D) The Oregon State Bar;

27 “(E) A governmental body of another state;

28 “(F) The federal government;

29 “(G) An American Indian tribe or an agency of an American Indian tribe;

30 “(H) A nation, or a governmental body in a nation, other than the United

1 States; or

2 “(I) An intergovernmental entity formed between or among:

3 “(i) Governmental bodies of this or another state;

4 “(ii) The federal government;

5 “(iii) An American Indian tribe or an agency of an American Indian tribe;

6 “(iv) A nation other than the United States; or

7 “(v) A governmental body in a nation other than the United States;

8 “(b) Agreements authorized by ORS chapter 190 or by a statute, charter

9 provision, ordinance or other authority for establishing agreements between

10 or among governmental bodies or agencies or tribal governing bodies or

11 agencies;

12 “(c) Insurance and service contracts as provided for under ORS 414.115,

13 414.125, 414.135 and 414.145 for purposes of source selection;

14 “(d) Grants;

15 “(e) Contracts for professional or expert witnesses or consultants to pro-

16 vide services or testimony relating to existing or potential litigation or legal

17 matters in which a public body is or may become interested;

18 “(f) Acquisitions or disposals of real property or interest in real property;

19 “(g) Sole-source expenditures when rates are set by law or ordinance for

20 purposes of source selection;

21 “(h) Contracts for the procurement or distribution of textbooks;

22 “(i) Procurements by a contracting agency from an Oregon Corrections

23 Enterprises program;

24 “(j) The procurement, transportation or distribution of distilled liquor, as

25 defined in ORS 471.001, or the appointment of agents under ORS 471.750 by

26 the Oregon Liquor Control Commission;

27 “(k) Contracts entered into under ORS chapter 180 between the Attorney

28 General and private counsel or special legal assistants;

29 “(L) Contracts for the sale of timber from lands owned or managed by the

30 State Board of Forestry and the State Forestry Department;

1 “(m) Contracts for activities necessary or convenient for the sale of tim-
2 ber under paragraph (L) of this subsection, either separately from or in
3 conjunction with contracts for the sale of timber, including but not limited
4 to activities such as timber harvesting and sorting, transporting, gravel pit
5 development or operation, and road construction, maintenance or improve-
6 ment;

7 “(n) Contracts for forest protection or forest related activities, as de-
8 scribed in ORS 477.406, by the State Forester or the State Board of Forestry;

9 “(o) Contracts entered into by the Housing and Community Services De-
10 partment in exercising the department’s duties prescribed in ORS chapters
11 456 and 458, except that the department’s public contracting for goods and
12 services is subject to ORS chapter 279B;

13 “(p) Contracts entered into by the State Treasurer in exercising the
14 powers of that office prescribed in ORS 178.010 to 178.100 and ORS chapters
15 286A, 287A, 289, 293, 294 and 295, including but not limited to investment
16 contracts and agreements, banking services, clearing house services and
17 collateralization agreements, bond documents, certificates of participation
18 and other debt repayment agreements, and any associated contracts, agree-
19 ments and documents, regardless of whether the obligations that the con-
20 tracts, agreements or documents establish are general, special or limited,
21 except that the State Treasurer’s public contracting for goods and services
22 is subject to ORS chapter 279B;

23 “(q) Contracts, agreements or other documents entered into, issued or es-
24 tablished in connection with:

25 “(A) The issuance of obligations, as defined in ORS 286A.100 and
26 287A.310, of a public body;

27 “(B) The making of program loans and similar extensions or advances of
28 funds, aid or assistance by a public body to a public or private body for the
29 purpose of carrying out, promoting or sustaining activities or programs au-
30 thorized by law; or

1 “(C) The investment of funds by a public body as authorized by law, and
2 other financial transactions of a public body that by their character cannot
3 practically be established under the competitive contractor selection proce-
4 dures of ORS 279B.050 to 279B.085;

5 “(r) Contracts for employee benefit plans as provided in ORS 243.105 (1),
6 [243.125 (4),] 243.221, 243.275, 243.291, 243.303 and 243.565;

7 “(s) Contracts for employee benefit plans as provided in ORS 243.860 to
8 243.886; or

9 “(t) Any other public contracting of a public body specifically exempted
10 from the code by another provision of law.

11 “(3) The Public Contracting Code does not apply to the contracting ac-
12 tivities of:

13 “(a) The Oregon State Lottery Commission;

14 “(b) The legislative department;

15 “(c) The judicial department;

16 “(d) Semi-independent state agencies listed in ORS 182.454, except as
17 provided in ORS 279.835 to 279.855 and 279A.250 to 279A.290;

18 “(e) Oregon Corrections Enterprises;

19 “(f) The Oregon Film and Video Office, except as provided in ORS
20 279A.100 and 279A.250 to 279A.290;

21 “(g) The Travel Information Council, except as provided in ORS 279A.250
22 to 279A.290;

23 “(h) The Oregon 529 Savings Network and the Oregon 529 Savings Board;

24 “(i) The Oregon Innovation Council;

25 “(j) The Oregon Utility Notification Center; or

26 “(k) Any other public body specifically exempted from the code by another
27 provision of law.

28 “(4) ORS 279A.200 to 279A.225 and 279B.050 to 279B.085 do not apply to
29 contracts made with qualified nonprofit agencies providing employment op-
30 portunities for individuals with disabilities under ORS 279.835 to 279.855.

1 “(Repeals, applicability dates and operative dates)
2

3 **“SECTION 68. ORS 243.061, 243.066, 243.125, 243.165, 243.167, 243.862,**
4 **243.864, 243.879, 243.880 and 243.884 are repealed.**

5 **“SECTION 69. The amendments to ORS 243.135 and 243.866 by**
6 **sections 59 and 61 of this 2017 Act apply to health benefit plans offered**
7 **by the Public Employee Benefit Board on or after January 1, 2019.**

8 **“SECTION 70. (1) Sections 46 to 56 of this 2017 Act, the amendments**
9 **to ORS 243.105, 243.135, 243.221, 243.860, 243.866, 243.874, 279A.025 and**
10 **442.396 by sections 58 to 62 and 65 to 67 of this 2017 Act and the repeal**
11 **of ORS 243.061, 243.066, 243.125, 243.165, 243.167, 243.862, 243.864, 243.879,**
12 **243.880 and 243.884 by section 68 of this 2017 Act become operative on**
13 **March 1, 2018.**

14 **“(2) The amendments to section 46 of this 2017 Act by section 64 of**
15 **this 2017 Act become operative on January 1, 2019.**

16
17 **“SCHOOL DISTRICT LABOR RELATIONS**
18

19 **“SECTION 71. Sections 72 and 73 of this 2017 Act are added to and**
20 **made a part of ORS 243.650 to 243.782.**

21 **“SECTION 72. As used in section 73 of this 2017 Act:**

22 **“(1)(a) ‘Benefits’ includes, but is not limited to, contributions that**
23 **a school district makes toward:**

24 **“(A) Insurance premiums for health, dental, disability, life and ac-**
25 **cidental death and dismemberment; and**

26 **“(B) Health savings and health reimbursement accounts and early**
27 **retirement accounts.**

28 **“(b) ‘Benefits’ does not include school district contributions made**
29 **to the Public Employees Retirement System.**

30 **“(2) ‘Salary’ includes, but is not limited to:**

1 “(a) Any cost of living adjustments to base salary; and

2 “(b) Any longevity or yearly pay increases, step pay increases and
3 other pay increases for additional educational skills attained.

4 “(3) ‘School district’ includes an education service district.

5 “SECTION 73. (1)(a) Each biennium, a school district may increase,
6 by a percentage not to exceed 6.5 percent, the amount available, from
7 the moneys received by the district from the State School Fund, to be
8 used to pay for salary and benefits for school employees employed
9 under a collective bargaining agreement.

10 “(b) If the percentage by which the total amount of moneys made
11 available for distribution from the State School Fund during the cur-
12 rent biennium increased by a percentage that is greater than zero, as
13 compared with the preceding biennium, the percentage by which the
14 school district may increase the amount of moneys available to be
15 used to pay for salary and benefits for school employees employed
16 under a collective bargaining agreement may not exceed the percent-
17 age by which the total amount of moneys available for distribution
18 from the State School Fund has increased and may not exceed the
19 limit established in paragraph (a) of this subsection.

20 “(c) If the percentage by which the total amount of moneys made
21 available for distribution from the State School Fund during the cur-
22 rent biennium increased by a percentage that is less than or equal to
23 zero, as compared with the preceding biennium, the school district
24 may not increase the amount of moneys made available to be used to
25 pay for salary and benefits for school employees employed under a
26 collective bargaining agreement.

27 “(2) Nothing in this section prohibits a school district from agreeing
28 under a collective bargaining agreement, or through the mediation
29 and fact-finding procedures under ORS 243.712 and 243.722, to a per-
30 centage that is less than a percentage identified under subsection (1)

1 **of this section.**

2 **“(3) Unless otherwise agreed to, as a part of the collective bargain-**
3 **ing process, to allow for the reopening of a section of the collective**
4 **bargaining agreement related to salary and benefits, any increase in**
5 **the amounts made available to pay for salary and benefits for school**
6 **employees employed under a collective bargaining agreement that is**
7 **based on a percentage under this section shall continue for the dura-**
8 **tion of the collective bargaining agreement.**

9 **“SECTION 74.** ORS 332.075 is amended to read:

10 “332.075. (1) Any district school board may:

11 “(a) Fix the days of the year and the hours of the day when schools shall
12 be in session.

13 “(b) Adopt textbooks and other instructional materials as provided in ORS
14 337.120 and 337.141 and courses of study for the use of such schools as pro-
15 vided in ORS 336.035.

16 “(c) Authorize the use of the schools for purposes of training students of
17 an approved educator preparation provider, as defined in ORS 342.120, and
18 for such purposes may enter into contracts with the approved educator
19 preparation provider on such terms as may be agreed upon. Such contracts
20 as they relate to student teachers shall have the same effect and be subject
21 to the same regulations as a contract between a licensed teacher and a dis-
22 trict school board.

23 “(d) Develop and operate with other school districts or community college
24 districts secondary career and technical education programs for pupils of
25 more than one district and fix by agreement the duration of the district’s
26 obligation to continue such activity, subject to the availability of funds
27 therefor.

28 “(e) Authorize the school district to be a member of and pay fees, if any,
29 to any voluntary organization that administers interscholastic activities or
30 that facilitates the scheduling and programming of interscholastic activities.

1 “(f) Accept money or property donated for the use or benefit of the school
2 district and, consistent with the laws of this state, use such money or prop-
3 erty for the purpose for which it was donated.

4 “(g) Enter into an approved written agreement with the governing body
5 of a federally recognized Native American tribe in Oregon to allow the use
6 of a mascot that represents, is associated with or is significant to the Native
7 American tribe entering into the agreement. An agreement entered into un-
8 der this paragraph must:

9 “(A) Describe the acceptable uses of the mascot;

10 “(B) Comply with rules adopted by the State Board of Education that:

11 “(i) Are adopted after consultation with the federally recognized tribes in
12 Oregon pursuant to ORS 182.164 (3); and

13 “(ii) Prescribe the requirements for approval; and

14 “(C) Be approved by the State Board of Education, which the board must
15 provide if the agreement meets the requirements of this paragraph and the
16 rules adopted under this paragraph.

17 “(2) All contracts of the school district must be approved by the district
18 school board before an order can be drawn for payment. If a contract is made
19 without the authority of the district school board, the individual making
20 such contract shall be personally liable.

21 “(3) Notwithstanding subsection (2) of this section, a district school board
22 may, by resolution or policy, authorize its superintendent or the
23 superintendent’s designee to enter into and approve payment on contracts for
24 products, materials, supplies, capital outlay, equipment and services that are
25 within appropriations made by the district school board pursuant to ORS
26 294.456. A district school board may not authorize its superintendent or the
27 superintendent’s designee under this subsection to enter into and approve
28 payment on contracts that are collective bargaining agreements or service
29 contracts that include the provision of labor performed by employees of the
30 school district.

1 “(4)(a) Except as provided by paragraph (b) of this subsection, a
2 district school board may not agree under a collective bargaining
3 agreement to an annual increase in the total amount of moneys used
4 to pay for the salary and benefits of a school employee employed under
5 a collective bargaining agreement that exceeds the percentage estab-
6 lished under section 73 (1)(a) of this 2017 Act.

7 “(b) Nothing in this subsection:

8 “(A) Prevents a school district from providing a salary increase
9 under a merit pay system or as the result of a promotion or a change
10 in duties.

11 “(B) Requires the total cost of the salary and benefits paid to a
12 school employee employed under a collective bargaining agreement to
13 be decreased from the previous fiscal year.

14 “(C) Prevents the parties to a collective bargaining agreement from
15 entering into a written agreement, as part of the collective bargaining
16 process, to provide for the reopening of any sections of the collective
17 bargaining agreement related to salary and benefits. Refusal by either
18 party to a written agreement entered into under this subparagraph to
19 reopen sections of a collective bargaining agreement related to salary
20 and benefits is not an unfair labor practice under ORS 243.672. The
21 reopening of sections as provided by this subparagraph does not com-
22 pel either party to agree to a proposal or require the making of a
23 concession.

24 “(c) As used in this subsection, ‘benefits,’ ‘salary,’ and ‘school dis-
25 trict’ have the meanings given those terms in section 72 of this 2017
26 Act.

27 “SECTION 75. Section 73 of this 2017 Act and the amendments to
28 ORS 332.075 by section 74 of this 2017 Act apply to collective bargaining
29 agreements entered into on or after January 1, 2018.

30

