

House Bill 4131

Sponsored by Representative NEARMAN (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that member of Public Employees Retirement System may not accrue pension benefits for future service.

Requires member and employer to each contribute four percent of member's salary to individual account program of Oregon Public Service Retirement Plan.

Provides for direct review of provisions by Supreme Court.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; creating new provisions; and amending ORS 238.005, 238.580,
3 238A.100, 238A.115, 238A.130, 238A.330, 238A.335, 238A.340 and 238A.350.

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

5 **SECTION 1. Section 2 of this 2018 Act is added to and made a part of ORS chapter 238.**

6 **SECTION 2. Notwithstanding any other provision of this chapter:**

7 (1) **A person may not accrue creditable service for purposes of this chapter on or after**
8 **the later of:**

9 (a) **The effective date of this 2018 Act; or**

10 (b) **The expiration of any collective bargaining agreement in effect on the effective date**
11 **of this 2018 Act that entitles the person to accrue creditable service for purposes of this**
12 **chapter.**

13 (2) **A member of the Public Employees Retirement System is entitled to receive only the**
14 **benefits provided under ORS 238A.300 to 238A.415 for periods of service with participating**
15 **public employers on or after the date applicable to the member under subsection (1) of this**
16 **section, and has no other right or claim to any benefit provided under this chapter for those**
17 **periods of service.**

18 (3) **A person who has performed any period of service for a participating public employer**
19 **before the effective date of this 2018 Act that is credited to the period of active membership**
20 **required for vesting under ORS 238.005 (30) is vested for purposes of this chapter on the ef-**
21 **fective date of this 2018 Act.**

22 **SECTION 3. ORS 238.005 is amended to read:**

23 238.005. For purposes of this chapter:

24 (1) "Active member" means a member who is presently employed by a participating public em-
25 ployer in a qualifying position and who has completed the six-month period of service required by
26 ORS 238.015.

27 (2) "Annuity" means payments for life derived from contributions made by a member as provided
28 in this chapter.

29 (3) "Board" means the Public Employees Retirement Board.

30 (4) "Calendar year" means 12 calendar months commencing on January 1 and ending on De-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 cember 31 following.

2 (5) "Continuous service" means service not interrupted for more than five years, except that
 3 such continuous service shall be computed without regard to interruptions in the case of:

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

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

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

17 (7) "Earliest service retirement age" means the age attained by a member when the member
 18 could first make application for retirement under the provisions of ORS 238.280.

19 (8) "Employee" includes, in addition to employees, public officers, but does not include:

20 (a) Persons engaged as independent contractors.

21 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-
 22 ployer or public employers do not total 600 hours in any calendar year.

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

25 (d) Persons employed and paid from federal funds received under a federal program intended
 26 primarily to alleviate unemployment. However, any such person shall be considered an "employee"
 27 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects
 28 to have the person so considered by an irrevocable written notice to the board.

29 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-
 30 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph
 31 shall be deemed to have been in effect since the inception of the system.

32 (f) Persons employed in positions classified as post-doctoral scholar positions by a public uni-
 33 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370.

34 (9) "Final average salary" means whichever of the following is greater:

35 (a) The average salary per calendar year paid by one or more participating public employers to
 36 an employee who is an active member of the system in three of the calendar years of membership
 37 before the effective date of retirement of the employee, in which three years the employee was paid
 38 the highest salary. The three calendar years in which the employee was paid the largest total salary
 39 may include calendar years in which the employee was employed for less than a full calendar year.
 40 If the number of calendar years of active membership before the effective date of retirement of the
 41 employee is three or fewer, the final average salary for the employee is the average salary per cal-
 42 endar year paid by one or more participating public employers to the employee in all of those years,
 43 without regard to whether the employee was employed for the full calendar year.

44 (b) One-third of the total salary paid by a participating public employer to an employee who is
 45 an active member of the system in the last 36 calendar months of active membership before the ef-

1 fective date of retirement of the employee.

2 (10) "Firefighter" does not include a volunteer firefighter, but does include:

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

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

7 (11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 fol-
8 lowing.

9 (12) "Fund" means the Public Employees Retirement Fund.

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

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

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

18 (16) "Member account" means the regular account and the variable account.

19 (17) "Normal retirement age" means:

20 (a) For a person who establishes membership in the system before January 1, 1996, as described
21 in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter
22 or 58 years of age if the employee retires at that age as other than a police officer or firefighter.

23 (b) For a person who establishes membership in the system on or after January 1, 1996, as de-
24 scribed in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or
25 firefighter or 60 years of age if the employee retires at that age as other than a police officer or
26 firefighter.

27 (18) "Pension" means annual payments for life derived from contributions by one or more public
28 employers.

29 (19) "Police officer" includes:

30 (a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions
31 whose duties, as assigned by the Director of the Department of Corrections, include the custody of
32 persons committed to the custody of or transferred to the Department of Corrections and employees
33 of the Department of Corrections who were classified as police officers on or before July 27, 1989,
34 whether or not such classification was authorized by law.

35 (b) Employees of the Department of State Police who are classified as police officers by the
36 Superintendent of State Police.

37 (c) Employees of the Oregon Liquor Control Commission who are classified as regulatory spe-
38 cialists by the administrator of the commission.

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

41 (e) Police chiefs and police personnel of a city who are classified as police officers by the
42 council or other governing body of the city.

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

45 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-

1 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
 2 probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes
 3 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
 4 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
 5 ented by a labor organization, any proposal by the county to change that classification or to cease
 6 to classify adult parole and probation officers as police officers for the purposes of this chapter is
 7 a mandatory subject of bargaining.

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

9 (i) Employees of the Port of Portland who are classified as airport police by the Board of Com-
 10 missioners of the Port of Portland.

11 (j) Employees of the State Department of Agriculture who are classified as livestock police of-
 12 ficers by the Director of Agriculture.

13 (k) Employees of the Department of Public Safety Standards and Training who are classified by
 14 the department as other than secretarial or clerical personnel.

15 (L) Investigators of the Criminal Justice Division of the Department of Justice.

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

17 (n) Employees of the Oregon State Lottery Commission who are classified by the Director of the
 18 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

19 (o) The Director of the Department of Corrections.

20 (p) An employee who for seven consecutive years has been classified as a police officer as de-
 21 fined by this section, and who is employed or transferred by the Department of Corrections to fill
 22 a position designated by the Director of the Department of Corrections as being eligible for police
 23 officer status.

24 (q) An employee of the Department of Corrections classified as a police officer on or prior to
 25 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
 26 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
 27 tem implemented pursuant to ORS 240.190 does not affect police officer status.

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

31 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
 32 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
 33 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
 34 Department of Corrections or the Oregon Youth Authority.

35 (t) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-
 36 scription involves the custody, control, treatment, investigation or supervision of juveniles placed
 37 in such facilities.

38 (u) Employees of the Oregon Youth Authority who are classified as juvenile parole and pro-
 39 bation officers.

40 (v) Employees of the Department of Human Services who are prohibited from striking under ORS
 41 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS
 42 443.400, that house individuals with intellectual or developmental disabilities.

43 (20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)
 44 to (6) (1999 Edition).

45 (21) "Public employer" means the state, one of its agencies, any city, county, or municipal or

1 public corporation, any political subdivision of the state or any instrumentality thereof, or an agency
 2 created by one or more such governmental organizations to provide governmental services. For
 3 purposes of this chapter, such agency created by one or more governmental organizations is a gov-
 4 ernmental instrumentality and a legal entity with power to enter into contracts, hold property and
 5 sue and be sued.

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

10 (23) "Regular account" means the account established for each active and inactive member un-
 11 der ORS 238.250.

12 (24) "Retired member" means a member who is retired for service or disability.

13 (25) "Retirement credit" means a period of time that is treated as creditable service for the
 14 purposes of this chapter.

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

19 (b) "Salary" includes but is not limited to:

20 (A) Payments of employee and employer money into a deferred compensation plan, which are
 21 deemed salary paid in each month of deferral;

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

24 (C) Retroactive payments described in ORS 238.008; and

25 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
 26 652.190.

27 (c) "Salary" or "other advantages" does not include:

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

30 (B) Payments for insurance coverage by an employer on behalf of employee or employee and
 31 dependents, for which the employee has no cash option;

32 (C) Payments made on account of an employee's death;

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

34 (E) Any accelerated payment of an employment contract for a future period or an advance
 35 against future wages;

36 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
 37 gratuitous payment;

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

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

45 (I) Payments made by an employer for insurance coverage provided to a domestic partner of an

1 employee[.]; or

2 **(J) Payments made to a member on or after the date applicable to the member under**
 3 **section 2 (1) of this 2018 Act.**

4 (27) "School year" means the period beginning July 1 and ending June 30 next following.

5 (28) "System" means the Public Employees Retirement System.

6 (29) "Variable account" means the account established for a member who participates in the
 7 Variable Annuity Account under ORS 238.260.

8 (30) "Vested" means being an active member of the system in each of five calendar years.

9 (31) "Volunteer firefighter" means a firefighter whose position normally requires less than 600
 10 hours of service per year.

11 **SECTION 4.** ORS 238.580 is amended to read:

12 238.580. (1) ORS 238.005 (4) and (26), 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250,
 13 238.255, 238.260, 238.350, 238.364, 238.410, 238.415, 238.420, 238.445, 238.458, 238.460, 238.465, 238.475,
 14 238.600, 238.605, 238.610, 238.618, 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665, 238.670
 15 and 238.705 **and section 2 of this 2018 Act** and the increases provided by ORS 238.366 for members
 16 of the system who are serving as other than police officers or firefighters apply in respect to service
 17 as a judge member.

18 (2) This chapter applies in respect to persons described in ORS 238.505 (1) and in respect to
 19 service as a judge member only as specifically provided in ORS 238.500 to 238.585.

20 **SECTION 5. Section 6 of this 2018 Act is added to and made a part of ORS chapter 238A.**

21 **SECTION 6. Notwithstanding any other provision of this chapter:**

22 (1) **A person may not accrue retirement credit for purposes of this chapter on or after**
 23 **the later of:**

24 (a) **The effective date of this 2018 Act; or**

25 (b) **The expiration of any collective bargaining agreement in effect on the effective date**
 26 **of this 2018 Act that entitles the person to accrue retirement credit for purposes of this**
 27 **chapter.**

28 (2) **A member of the Public Employees Retirement System is entitled to receive only the**
 29 **benefits provided under ORS 238A.300 to 238A.415 for periods of service with participating**
 30 **public employers on or after the date applicable to the member under subsection (1) of this**
 31 **section, and has no other right or claim to any benefit provided under this chapter or ORS**
 32 **chapter 238 for those periods of service.**

33 **SECTION 7.** ORS 238A.100 is amended to read:

34 238A.100. (1)(a) Except as provided by [*subsection (2)*] **subsections (2) and (3)** of this section,
 35 an eligible employee who is employed in a qualifying position on or after August 29, 2003, by a
 36 public employer that is participating in the pension program and who will not receive benefits under
 37 ORS chapter 238 for service with the participating public employer pursuant to the provisions of
 38 ORS 238A.025 becomes a member of the pension program on the first day of the month after the
 39 employee completes six full calendar months of employment. The six-month requirement may not be
 40 interrupted by more than 30 consecutive working days.

41 (b) Employer contributions for new members of the pension program shall first be made under
 42 ORS 238A.220 for those wages that are attributable to services performed by the employee during
 43 the first full pay period following the six-month period, without regard to when those wages are
 44 considered earned for other purposes under this chapter.

45 (2) A person who is elected or appointed to an office with a fixed term other than as a member

1 of the Legislative Assembly, or who is appointed by the Governor to an office as head of a depart-
 2 ment, may elect not to become a member of the pension program by giving the Public Employees
 3 Retirement Board written notice not later than 30 days after taking office. An election under this
 4 subsection also operates as an election not to become a member of the individual account program.
 5 An election under this subsection is irrevocable during the term of office for which the election is
 6 made.

7 **(3) Notwithstanding subsection (1) of this section, a person may not become a member**
 8 **of the pension program on or after the effective date of this 2018 Act.**

9 **SECTION 8.** ORS 238A.115 is amended to read:

10 238A.115. (1) Except as provided in subsection (2) of this section, a member of the pension pro-
 11 gram becomes vested in the pension program on the earliest of the following dates:

12 (a) The date on which the member completes at least 600 hours of service in each of five cal-
 13 endar years. The five calendar years need not be consecutive, but are subject to the provisions of
 14 subsection (3) of this section.

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

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

19 **(d) The date applicable to the member under section 6 (1) of this 2018 Act.**

20 (2) If on the date that a person becomes an active member the person has already reached the
 21 normal retirement age for the person under ORS 238A.160, the person is vested in the pension pro-
 22 gram on that date.

23 (3) If a member of the pension program who is not vested in the pension program performs fewer
 24 than 600 hours of service in each of five consecutive calendar years, hours of service performed
 25 before the first calendar year of the period of five consecutive calendar years shall be disregarded
 26 for purposes of determining whether the member is vested under subsection (1)(a) of this section.

27 (4) Solely for purposes of determining whether a member is vested under this section, hours of
 28 service include creditable service, as defined in ORS 238.005, performed by the person before the
 29 person became an eligible employee, as long as the membership of the person under ORS chapter
 30 238 has not been terminated under the provisions of ORS 238.095 on the date the person becomes
 31 an eligible employee.

32 **SECTION 9.** ORS 238A.130 is amended to read:

33 238A.130. (1) Except as provided in subsection (3) of this section, for purposes of the computa-
 34 tion of pension program benefits under ORS 238A.125, "final average salary" means whichever of the
 35 following is greater:

36 (a) The average salary per calendar year paid to an active member in the three consecutive
 37 calendar years of membership that produce the highest average salary, including calendar years in
 38 which the member was employed for less than a full calendar year. If the number of consecutive
 39 calendar years of active membership before the effective date of retirement of the member is three
 40 or less, the final average salary for the member is the average salary per calendar year paid to the
 41 member in all of those years, without regard to whether the member was employed for full calendar
 42 years.

43 (b) One-third of the total salary paid to an active member in the last 36 calendar months of
 44 membership before the effective date of retirement of the member.

45 (2) For the purposes of calculating the final average salary of a member under subsection (1)

1 of this section, the Public Employees Retirement Board shall:

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

3 (b) Exclude any salary for any pay period before the first full pay period that is included in the
4 three consecutive calendar years of membership under subsection (1)(a) of this section; and

5 (c) Exclude any salary for any pay period before the first full pay period that is included in the
6 last 36 calendar months of membership under subsection (1)(b) of this section.

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

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

17 (b) One-third of the total salary earned by an active member in the last 36 calendar months of
18 membership before the effective date of retirement of the member.

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

21 (a) Any amounts attributable to hours of overtime that exceed the average number of hours of
22 overtime for the same class of employees as established by rule of the Public Employees Retirement
23 Board. The Oregon Department of Administrative Services shall establish by rule more than one
24 overtime average for a class of state employees based on the geographic placement of the employees.

25 (b) Any increases in salary during the last 36 calendar months of membership before the effec-
26 tive date of retirement of the member that:

27 (A) Are made by an employer to pay for insurance coverage previously paid for by the employer;
28 and

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

31 **(c) Salary paid to a member on or after the date applicable to the member under section**
32 **6 (1) of this 2018 Act.**

33 **SECTION 10.** ORS 238A.330 is amended to read:

34 238A.330. (1)(a) A member of the individual account program must make employee contributions
35 to the individual account program of ~~six~~ **four** percent of the member’s salary.

36 [(2)] (b) Employee contributions made by a member of the individual account program under this
37 [section] **subsection** shall be credited by the board to the employee account established for the
38 member under ORS 238A.350 (2).

39 **(2)(a) A participating public employer shall make employer contributions to the individual**
40 **account program in an amount equal to four percent of a member’s salary.**

41 **(b) Employer contributions made under this subsection shall be credited by the board to**
42 **the employer account established for the member under ORS 238A.350 (3).**

43 (3) A new member of the individual account program **and the new member’s employer** shall
44 first make contributions under this section for those wages that are attributable to services per-
45 formed by the employee during the first full pay period following the six-month probationary period

1 required under ORS 238A.300, without regard to when those wages are considered earned for other
 2 purposes under this chapter.

3 **SECTION 11.** ORS 238A.335 is amended to read:

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

8 (2) An agreement under this section to pay the required employee contribution may provide that:

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

11 (b) Additional amounts be paid by the employer for the purpose of making the employee contri-
 12 butions, and employee compensation not be reduced for the purpose of generating the funds needed
 13 to make the employee contributions.

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

20 **(4) Notwithstanding subsection (1) of this section, a participating public employer may**
 21 **not pay the employee contribution required under ORS 238A.330 on or after the later of:**

22 **(a) The effective date of this 2018 Act; or**

23 **(b) The expiration of any collective bargaining agreement in effect on effective date of**
 24 **this 2018 Act under which a participating public employer agrees to pays employee contri-**
 25 **butions under this section.**

26 **SECTION 12.** ORS 238A.340 is amended to read:

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

33 (2) If a participating public employer makes employer contributions under this section and the
 34 member for which the contributions are made fails to vest in the employer account under the pro-
 35 visions of ORS 238A.320, the Public Employees Retirement Board shall apply the contributions in
 36 the employer account against other obligations of the employer under the Oregon Public Service
 37 Retirement Plan.

38 **(3) Notwithstanding subsections (1) and (2) of this section, a participating public employer**
 39 **may not make contributions under this section on or after the later of:**

40 **(a) The effective date of this 2018 Act; or**

41 **(b) The expiration of any collective bargaining agreement in effect on the effective date**
 42 **of this 2018 Act under which a participating public employer agrees to make contributions**
 43 **under this section.**

44 **SECTION 13.** ORS 238A.350 is amended to read:

45 238A.350. (1) Upon any contributions being made to the individual account program by or on

1 behalf of a member of the program, the Public Employees Retirement Board shall create the account
 2 or accounts described in this section. Each account shall be adjusted at least annually in accordance
 3 with rules adopted by the board to reflect any net earnings or losses on those contributions and to
 4 pay the reasonable administrative costs of maintaining the program to the extent the earnings on
 5 the assets of the program are insufficient to pay those costs. The adjustments described in this
 6 subsection shall continue until the account is distributed to the member or forfeited.

7 (2)(a) The board shall establish an employee account, which shall consist of the employee con-
 8 tributions made by or on behalf of the member as adjusted under subsection (1) of this section.

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

13 (3) *[If the public employer agrees to make employer contributions under ORS 238A.340,]* The board
 14 shall establish an employer account, which shall consist of the employer contributions made on be-
 15 half of the member as adjusted under subsection (1) of this section.

16 (4) If the board accepts rollover contributions on behalf of the member, the board shall establish
 17 a rollover account, which shall consist of the rollover contributions made by the member as adjusted
 18 under subsection (1) of this section. Contributions and the earnings attributable to the contributions
 19 must be accounted for separately.

20 (5) The board shall provide an annual statement to each active and inactive member of the
 21 program that reflects the amount credited to the accounts established under this section. The
 22 statement shall reflect whether the member is vested in the employer account under the provisions
 23 of ORS 238A.320.

24 **SECTION 14. (1) Jurisdiction is conferred upon the Supreme Court to determine in the**
 25 **manner provided by this section whether this 2018 Act breaches any contract between**
 26 **members of the Public Employees Retirement System and their employers or violates any**
 27 **provision of the Oregon Constitution or of the United States Constitution, including but not**
 28 **limited to impairment of contract rights of members of the Public Employees Retirement**
 29 **System under Article I, section 21, of the Oregon Constitution, or Article I, section 10, clause**
 30 **1, of the United States Constitution.**

31 (2) **A person who is adversely affected by this 2018 Act or who will be adversely affected**
 32 **by this 2018 Act may institute a proceeding for review by filing with the Supreme Court a**
 33 **petition that meets the following requirements:**

34 (a) **The petition must be filed within 60 days after the effective date of this 2018 Act.**

35 (b) **The petition must include the following:**

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

37 (B) **A statement and supporting affidavit showing how the petitioner is adversely af-**
 38 **ected.**

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

41 (4) **Proceedings for review under this section shall be given priority over all other mat-**
 42 **ters before the Supreme Court.**

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

45 (6)(a) **The Supreme Court shall allow members of the Legislative Assembly to intervene**

1 in any proceeding relating to this 2018 Act. After a member intervenes in a proceeding re-
2 lating to this 2018 Act, the member has standing to participate in the proceeding even if the
3 member ceases to be a member of the Legislative Assembly.

4 (b) A member of the Senate or the House of Representatives who intervenes in or par-
5 ticipates in a proceeding under this subsection may not use public funds to pay legal ex-
6 penses incurred in intervening in or participating in the proceeding.

7 (7) In the event the Supreme Court determines that there are factual issues in the peti-
8 tion, the Supreme Court may appoint a special master to hear evidence and to prepare re-
9 commended findings of fact.

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