Senate Bill 148

Sponsored by Senator KNOPP (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.

Requires members of Public Employees Retirement System to elect to participate in pension programs and traditional individual account program, or to participate in alternative individual account program, on and after July 1, 2020.

For traditional individual account program, requires employee contributions of six percent of salary, to be used to pay costs of pension or other benefits payable to member upon retirement.

For alternative individual account program, requires employee contributions of six percent of salary and employer contributions of six percent of salary. Provides for lump sum payment or annuitization of account upon retirement.

Directs Public Employees Retirement Board to recalculate employer contribution rates to reflect savings attributable to Act.

Provides for expedited review of Act by Supreme Court upon petition by adversely affected party.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to public employee retirement; creating new provisions; amending ORS 238A.100, 238A.320, 238A.330, 238A.350, 238A.370, 238A.375, 238A.400, 238A.410, 243.800 and 341.551; and declaring an emergency.

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

SECTION 1. Sections 2 to 4 of this 2019 Act are added to and made a part of ORS chapter 238A.

SECTION 2. (1) Before the first day of the month after an eligible employee who is employed in a qualifying position completes six full calendar months of employment, the eligible employee shall elect:

(a) To become a member of the pension program under ORS 238A.100 and to participate in the traditional individual account program on the first day of the month after the employee completes six full calendar months of employment; or

(b) To participate in the alternative individual account program on the first day of the month after the employee completes six full calendar months of employment and to decline to become a member of the pension program under ORS 238A.100.

(2) An election under this section is irrevocable.

SECTION 3. (1) On July 1, 2020, an active member of the pension program shall elect:

(a) To remain a member of the pension program and to remain a member of the traditional individual account program on July 1, 2020; or

(b) To become a member of the alternative individual account program on July 1, 2020.

(2) On July 1, 2020, an active member as defined in ORS 238.005 shall elect:

(a) To continue to accrue benefits under ORS chapter 238 and to participate in the traditional individual account program, on July 1, 2020; or

(b) To participate in the alternative individual account program on July 1, 2020.

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.
(3) An inactive member of the pension program who returns to active membership on 
or after July 1, 2020, shall elect, on the date the member returns to active membership:
   (a) To remain a member of the pension program and to participate in the traditional in-
dividual account program; or 
   (b) To participate in the alternative individual account program on the date the member 
returns to active membership.

(4) An inactive member as defined in ORS 238.005 who returns to active membership on 
or after July 1, 2020, shall elect, on the date the member returns to active membership:
   (a) To continue to accrue benefits under ORS chapter 238 and to participate in the tra-
ditional individual account program; or 
   (b) To participate in the alternative individual account program on the date the member 
returns to active membership.

(5)(a) A member who elects to participate in the alternative individual account program 
under this section, who has creditable service under ORS chapter 238 as defined by ORS 
238.005 and who is not vested shall be considered by the Public Employees Retirement Board 
to be a terminated member under the provisions of ORS 238.095 as of the date of the election, 
and the amount credited to the member account of the member shall be transferred directly 
to the alternative employee account established for the member under ORS 238A.350 by the 
board.

   (b) A member who elects to participate in the alternative individual account program 
under this section, who has creditable service under ORS chapter 238 as defined by ORS 
238.005 and who is vested shall be considered to be an inactive member by the board as of 
the date of the election and shall retain all the rights, privileges and options under ORS 
chapter 238 unless the member makes a written request to the board for a transfer of the 
amounts credited to the member account of the member to the alternative employee account 
established for the member under ORS 238A.350. A request for a transfer must be made at 
time the member elects to participate in the alternative individual account program. 
Upon receiving the request, the board shall transfer all amounts credited to the member 
account of the member directly to the alternative employee account established for the 
member under ORS 238A.350, and shall terminate all rights, privileges and options of the 
member under ORS chapter 238.

   (c) A member who elects to participate in the alternative individual account program 
under this section and who is not a vested member of the pension program as described in 
ORS 238A.115 on the date of the election shall be considered to be a terminated member of 
the pension program by the board as of the date of the election.

   (d) A member who elects to participate in the alternative individual account program 
under this section and who is a vested member of the pension program as described in ORS 
238A.115 on June 30, 2020, shall be considered an inactive member of the pension program 
by the board as of the date of the election. A member who is subject to the provisions of this 
paragraph retains all the rights, privileges and options of an inactive member of the pension 
program. If the actuarial equivalent of the member’s benefit under the pension program at 
the time that the election becomes effective is $5,000 or less, the member may make a 
written request to the board for a transfer of the member’s interest under the pension pro-
gram to the alternative employee account established for the member under ORS 238A.350. 
The request must be made at the time the member elects to participate in the alternative
individual account program. Upon receiving the request, the board shall transfer the amount
determined to be the actuarial equivalent of the member’s benefit under the pension program
directly to the alternative employee account established for the member under ORS 238A.350,
and shall terminate the membership of the member in the pension program.

(e) Notwithstanding paragraphs (b) and (d) of this subsection, the board may not treat
any member as an inactive member of the pension program or as an inactive member as
defined in ORS 238.005 under the provisions of this subsection for the purpose of receiving
any benefit under ORS chapter 238 or 238A that requires that the member be separated from
all service with participating public employers and with employers who are treated as part
of a participating public employer’s controlled group under the federal laws and rules gov-
erning the status of the Public Employees Retirement System and the Public Employees
Retirement Fund as a qualified governmental retirement plan and trust.

(6) Any amounts transferred under subsection (5) of this section shall be transferred di-
rectly to the individual account program and may not be made available to the member.

(7) This section does not apply to a judge member as defined in ORS 238.500.

(8) An election under this section is irrevocable.

SECTION 4. (1) Section 2 of this 2019 Act applies to persons who become active members
of the pension program of the Oregon Public Service Retirement Plan, after July 1, 2020.

(2) Section 3 of this 2019 Act applies to persons who are active members of the pension
program of the Oregon Public Service Retirement Plan or active members as defined in ORS
238.005 on July 1, 2020, and persons who return to active membership after being an inactive
member of the Public Employees Retirement System on or after July 1, 2020.

SECTION 5. ORS 238A.100 is amended to read:

238A.100. (1)(a) Except as provided by subsection (2) of this section and section 2 of this 2019
Act, an eligible employee who is employed in a qualifying position on or after August 29, 2003, by
a public employer that is participating in the pension program and who will not receive benefits
under ORS chapter 238 for service with the participating public employer pursuant to the provisions
of ORS 238A.025 becomes a member of the pension program on the first day of the month after the
employee completes six full calendar months of employment. The six-month requirement may not be
interrupted by more than 30 consecutive working days.

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

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

SECTION 6. ORS 238A.330 is amended to read:

238A.330. (1)(a) A member [of] who elects to participate in the traditional individual account
program under section 2 or 3 of this 2019 Act must make employee contributions to the individual
account program of six percent of the member’s salary.
(2) (a) Employee contributions made by a member of the individual account program under this section shall be credited by the board to the employee contributions account established for the member under ORS 238A.350 (2) (3).
(b) A member who elects to participate in the alternative individual account program under section 2 or 3 of this 2019 Act must make employee contributions to the individual account program of six percent of the member's salary.
(b) A participating public employer that employs a member who elects to participate in the alternative individual account program under section 2 or 3 of this 2019 Act must make employer contributions to the individual account program for the member of six percent of the member's salary.
(c) Employee contributions made by a member of the individual account program under this subsection shall be credited by the board to the alternative employee account established for the member under ORS 238A.350 (6).
(3) A new member of the individual account program and the member's employer shall first make contributions under this section for those wages that are attributable to services performed by the employee during the first full pay period following the six-month probationary period required under ORS 238A.300, without regard to when those wages are considered earned for other purposes under this chapter.

SECTION 7. ORS 238A.350 is amended to read:

238A.350. (1) Upon any contributions being made to the individual account program by or on behalf of a member of the program, the Public Employees Retirement Board shall create the account or accounts described in this section. Each account shall be adjusted at least annually in accordance with rules adopted by the board to reflect any net earnings or losses on those contributions and to pay the reasonable administrative costs of maintaining the program to the extent the earnings on the assets of the program are insufficient to pay those costs. The adjustments described in this subsection shall continue until the account is distributed to the member or, forfeited or applied to pay the costs of a pension or other retirement benefits under subsection (3) of this section.

(2)(a) The board shall establish an employee account, which shall consist of the employee contributions made by or on behalf of the member under ORS 238A.330 before July 1, 2020, as adjusted under subsection (1) of this section.
(b) The board shall create a separate employee account for a member who becomes an active member for the purpose of service in the Legislative Assembly under ORS 237.650, which shall consist of the employee contributions made by or on behalf of the member under ORS 238A.330 before July 1, 2020, that are attributable to the member's legislative service, as adjusted under subsection (1) of this section.

(3)(a) The board shall establish a contributions account, which shall consist of the employee contributions made by or on behalf of the member under ORS 238A.330 on and after July 1, 2020, as adjusted under subsection (1) of this section.
(b) Unless the amounts in a contributions account established under this subsection are withdrawn under ORS 238A.375, the amounts in the account shall be applied by the board to pay the costs of the pension or other retirement benefits payable to the member or the member's beneficiary under this chapter or ORS chapter 238 that are earned on or after July 1, 2020.
(c) If the amounts in the contributions account established under this subsection exceed
the actuarially projected costs of the pension or other retirement benefits payable to the
member or the member’s beneficiary under this chapter or ORS chapter 238 that are earned
on or after July 1, 2020, the board shall refund the excess amounts to the member upon re-
tirement.

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

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

(6) The board shall create an alternative employee account for each member who elects
to participate in the alternative individual account program under section 2 or 3 of this 2019
Act, which shall consist of the contributions made by or on behalf of the member under ORS
238A.330 (2), as adjusted under subsection (1) of this section.

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

SECTION 8. ORS 238A.320 is amended to read:

238A.320. (1) A member of the individual account program becomes vested in the employee ac-
count established for the member under ORS 238A.350 (2) on the date the employee account is es-
tablished.

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

(3) A member becomes vested in the contributions account established for the member
under ORS 238A.350 (3) on the date the account is established.

[(3)] (4) Except as provided in subsection [(4)] (6) of this section, if an employer makes employer
contributions for a member under ORS 238A.340, the member becomes vested in the employer ac-
count established under ORS 238A.350 [(3)] (4) on the earliest of the following dates:

(a) The date on which the member completes at least 600 hours of service in each of five cal-
endar years. The five calendar years need not be consecutive, but are subject to the provisions of
subsection [(5)] (7) of this section.

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

(c) If the individual account program is terminated, the date on which termination becomes ef-
fective, but only to the extent the account is then funded.

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

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

(5) A member who elects to participate in the alternative individual account program
under section 2 or 3 of this 2019 Act becomes vested in the alternative employee account
established for the member under ORS 238A.350 (6) on the date the alternative employee
account is established.

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

[(5)] (7) If a member of the individual account program who is not vested in the employer account performs fewer than 600 hours of service in each of five consecutive calendar years, hours of service performed before the first calendar year of the period of five consecutive calendar years shall be disregarded for purposes of determining whether the member is vested under subsection [(3)(a)] (4)(a) of this section.

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

SECTION 9. ORS 238A.370, as amended by section 7, chapter 101, Oregon Laws 2018, is amended to read:

238A.370. Notwithstanding any other provision of ORS 238A.300 to 238A.415, the annual addition to the employee account, alternative employee account and employer [(accounts) account of a member of the individual account program for a calendar year, together with the annual additions to the accounts of the member under any other defined contribution plan maintained by the participating public employer for a calendar year, may not exceed the lesser of $40,000, or 100 percent of the member’s compensation for that calendar year. For purposes of this section, “annual addition” has the meaning given that term in 26 U.S.C. 415(c)(2), as in effect on December 31, 2017, and “compensation” has the meaning given the term “participant’s compensation” in 26 U.S.C. 415(c)(3), as in effect on December 31, 2017. The Public Employees Retirement Board shall adopt rules for the administration of this limitation, including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

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

238A.375. (1)(a) An inactive member of the individual account program may elect to receive a distribution of the amounts in the member’s employee account, alternative employee account, rollover account and employer account to the extent the member is vested in those accounts under ORS 238A.320 if the inactive member has separated from all service with participating public employers and with employers who are treated as part of a participating public employer’s controlled group under the federal laws and rules governing the status of the system and the fund as a qualified governmental retirement plan and trust.

(b)(A) An inactive member of the individual account program may elect to receive a distribution of the amounts in the member’s contributions account established for the member under ORS 238A.350 (3) if:

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

(ii) The member is eligible to withdraw and withdraws from the pension program under ORS 238A.120.

(B) The withdrawal of the member’s accounts under this paragraph cancels all membership rights in the Public Employees Retirement System.

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

(3) A member may not make an election under this section for less than all of the member's in-
dividual accounts described in ORS 238A.350 in which the member is vested.

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

(5) A member who has a member account established under ORS chapter 238 may make an
election under this section only if the member also withdraws the account established under ORS
238.440.

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

SECTION 11. ORS 238A.400, as amended by section 8, chapter 101, Oregon Laws 2018, is
amended to read:

238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS
238A.165, a member of the individual account program shall receive in a lump sum the amounts in
the member's employee account, alternative employee account, rollover account and employer
account to the extent the member is vested in those accounts under ORS 238A.320.

(2)(a)(A) In lieu of a lump sum payment under subsection (1) of this section, a member of the
individual account program may elect to receive the amounts in the member's employee account and
employer account, to the extent the member is vested in those accounts under ORS 238A.320, in
substantially equal installments paid over a period of 5, 10, 15 or 20 years, or over a period that is
equal to the anticipated life span of the member as actuarially determined by the Public Employees
Retirement Board.

(B) Installments may be made on a monthly, quarterly or annual basis. In no event may the
period selected by the member exceed the time allowed by the minimum distribution requirements
described in subsection (5) of this section.

(C) The board shall by rule establish the manner in which installments will be adjusted to re-
fect investment gains and losses on the unpaid balance during the payout period elected by the
member under this [subsection] paragraph. The board by rule may establish minimum monthly
amounts payable under this [subsection] paragraph.

(D) The board may require that a lump sum payment, or an installment schedule different
[than] from the schedules provided for in this subsection, be used to pay the vested amounts in the
member's accounts if those amounts are not adequate to generate the minimum monthly amounts
specified by the rule.

(b)(A) In lieu of a lump sum payment under subsection (1) of this section, a member of
the individual account program may elect to receive the amounts in the member's alternative employee account, to the extent the member is vested in that account under ORS
238A.320, in substantially equal installments over a period that is equal to the anticipated life
span of the member as actuarially determined by the board.

(B) For purposes of calculating payments under this paragraph, the board shall use, at
the member's election, the assumed earnings rate for the system or the assumed earnings rate for the system minus any amount assumed for inflation. If the member elects to use the assumed earnings rate for the system minus any amount assumed for inflation, the board shall increase the payment each year as provided in ORS 238A.210.

(C) Installments may be made on a monthly, quarterly or annual basis. In no event may the period selected by the member exceed the time allowed by the minimum distribution requirements described in subsection (5) of this section.

(D) The board shall by rule establish the manner in which installments will be adjusted to reflect investment gains and losses on the unpaid balance during the payout period elected by the member under this paragraph. The board by rule may establish minimum monthly amounts payable under this paragraph.

(E) The board may require that a lump sum payment, or an installment schedule different from the schedules provided for in this paragraph, be used to pay the vested amounts in the member's accounts if those amounts are not adequate to generate the minimum monthly amounts specified by the rule.

(3) A member of the individual account program electing to receive installments under subsection (2) of this section must designate a beneficiary or beneficiaries. In the event the member dies before all amounts in the employee and vested employer accounts are paid, all remaining installment payments shall be made to the beneficiary or beneficiaries designated by the member. A beneficiary may elect to receive a lump sum distribution of the remaining amounts.

(4) A member who is entitled to receive retirement benefits under ORS chapter 238 may receive vested amounts in the member's employee account, alternative employee account, rollover account and employer account in the manner provided by this section when the member retires for service under the provisions of ORS chapter 238.

(5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a member of the individual account program must be distributed over a time period commencing no later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations implementing that section, as in effect on December 31, 2017. The board shall adopt rules implementing those minimum distribution requirements.

SECTION 12. ORS 238A.410, as amended by section 9, chapter 101, Oregon Laws 2018, is amended to read:

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

(b) If a member of the individual account program dies before retirement, the amounts in the contributions account established for the member under ORS 238A.350 (3) shall be applied by the Public Employees Retirement Board to pay the costs of any benefit payable under ORS 238A.230. If the amounts in the contributions account exceed the costs of the benefit payable under ORS 238A.230, the excess amounts shall be paid in a lump sum to the beneficiary or beneficiaries designated by the member for the purposes of this section.

(2) If a member of the individual account program is married at the time of death, or there exists at the time of death any other person who is constitutionally required to be treated in the same
manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the 
beneficiary for purposes of the death benefit payable under this section unless the spouse or other 
person consents to the designation of a different beneficiary or beneficiaries before the designation 
has been made and the consent has not been revoked by the spouse or other person as of the time 
of the member’s death. Consent and revocation of consent must be in writing, acknowledged by a 
notary public, and submitted to the [Public Employees Retirement] board in accordance with rules 
adopted by the board. If the member’s spouse is designated as the member’s beneficiary and the 
membership of the member and spouse is subsequently dissolved, the former spouse shall be treated as 
predeceasing the member for purposes of this section, unless the member expressly designates the 
former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-
quired to be designated as a beneficiary under the provisions of ORS 238.465.

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

(a) The member’s surviving spouse or other person who is constitutionally required to be treated 
in the same manner as a spouse;
(b) The member’s surviving children, in equal shares; or
(c) The member’s estate.

(4) The entire amount of a deceased member’s vested accounts must be distributed by December 
31 of the fifth calendar year after the year in which the member died. Notwithstanding any other 
provision of this chapter, distributions of death benefits under the individual account program must 
comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
plementing that section, as in effect on December 31, 2017. The [Public Employees Retirement] board 
shall adopt rules implementing those minimum distribution requirements.

SECTION 13. ORS 243.800 is amended to read:

243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to 
243.945, the governing board of a public university listed in ORS 352.002 shall establish and admin-
ister an Optional Retirement Plan for administrative and academic employees of the public univer-
sity. The Optional Retirement Plan must be a qualified plan under the Internal Revenue Code, 
capable of accepting funds transferred under subsection (7) of this section without the transfer being 
treated as a taxable event under the Internal Revenue Code, and willing to accept those funds. 
Retirement and death benefits shall be provided under the plan by the purchase of annuity contracts, 
fixed or variable or a combination thereof, or by contracts for investments in mutual funds.

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

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

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

(3) An administrative or academic employee who is eligible to remain or become a member of 
the Public Employees Retirement System, including an administrative or academic employee who 
previously participated in the Optional Retirement Plan because of employment in a position clas-
sified as a post-doctoral scholar position under ORS 350.370, may make an irrevocable election to 
participate in the Optional Retirement Plan within six months after being employed. An election 
under this subsection is effective on the first day of the month following the completion of the re-
quirements of subsection (2) of this section.

(4) An administrative or academic employee who is eligible to remain or become a member of the Public Employees Retirement System and who does not elect to participate in the Optional Retirement Plan:
   (a) Remains or becomes a member of the Public Employees Retirement System in accordance with ORS chapters 238 and 238A; or
   (b) Continues to be assisted by the governing board under ORS 243.920 if the employee is being so assisted.

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

(6)(a) An administrative or academic employee who elects to participate in the Optional Retirement Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall be considered by the Public Employees Retirement Board to be a terminated member under the provisions of ORS 238.095 as of the effective date of the election, and the amounts credited to the member accounts of the member established under ORS 238.250 and 238.260 shall be transferred directly to the Optional Retirement Plan by the Public Employees Retirement Board in the manner provided by subsection (7) of this section.

(b) An administrative or academic employee who elects to participate in the Optional Retirement Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall be considered to be an inactive member by the Public Employees Retirement Board and shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes a written request to the Public Employees Retirement Board for a transfer of the amounts credited to the member accounts of the member established under ORS 238.250 and 238.260 to the Optional Retirement Plan. A request for a transfer must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer all amounts credited to the member accounts of the member established under ORS 238.250 and 238.260 directly to the Optional Retirement Plan, and shall terminate all rights, privileges and options of the employee as provided in ORS 238.095.

(c) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 An administrative or academic employee who elects to participate in the Optional Retirement Plan and who is a member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that the election becomes effective, but who has not vested in the program under ORS 238A.115 on the date that the election becomes effective, shall be considered to be a terminated member of the pension program by the Public Employees Retirement Board as of the effective date of the election. The board shall transfer the amounts credited to the member accounts of the member directly to the Optional Retirement Plan.

(d) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be considered an inactive member of the pension program by the Public Employees Retirement Board as of
the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the pension program. If the actuarial equivalent of the employee's benefit under the pension program at the time that the election becomes effective is $5,000 or less, the employee may make a written request to the Public Employees Retirement Board for a transfer of the employee's interest under the pension program to the Optional Retirement Plan. The request must be made at the time the employee elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit under the pension program directly to the Optional Retirement Plan, and shall terminate the membership of the employee in the pension program.

(e) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a vested member of the individual account program of the Oregon Public Service Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall be considered an inactive member of the individual account program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the individual account program. An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a member of the individual account program of the Oregon Public Service Retirement Plan, may make a written request to the Public Employees Retirement Board that all amounts in the member's employee account, rollover account and employer account credited to the member accounts of the member established under ORS 238A.350, to the extent the member is vested in those accounts under ORS 238A.320, be transferred to the Optional Retirement Plan. The request must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts directly to the Optional Retirement Plan, and shall terminate the membership of the employee in the individual account program upon making the transfer.

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

(7) Any amounts transferred from the Public Employees Retirement Fund under subsection (6) of this section shall be transferred directly to the Optional Retirement Plan by the Public Employees Retirement Board and may not be made available to the employee.

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

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

(10) For an employee participating in the Optional Retirement Plan who was hired on or after
July 1, 2014, the governing board shall contribute monthly to the Optional Retirement Plan:
(a) Eight percent of the employee's salary; and
(b) A percentage of the employee's salary equal to the percentage of salary contributed by the
employee to the public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820, up to
four percent of the employee's salary in each pay period.

(11)(a) Unless otherwise prohibited by law, a person employed in a position classified as a
post-doctoral scholar position under ORS 350.370 is an academic employee under subsection (1) of
this section and becomes a participant in the Optional Retirement Plan when the person participates
in the public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820.
(b) Participation in the Optional Retirement Plan under this subsection becomes effective on the
first day of the month following the later of:
(A) Enrollment in the public university's Tax-Deferred Investment 403(b) Plan under ORS
243.820; or
(B) Completion of:
   (i) Six hundred hours of employment, or the equivalent as determined by the governing board;
   and
   (ii) Six months of employment that is not interrupted by more than 30 consecutive working days.
(c) For a post-doctoral scholar participating in the Optional Retirement Plan, the governing
board shall contribute monthly to the Optional Retirement Plan a percentage of the post-doctoral
scholar's salary equal to the percentage of salary contributed by the post-doctoral scholar to the
public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820, up to four percent of the
post-doctoral scholar's salary in each pay period.
(d) A post-doctoral scholar is an academic employee who elects to participate in the Optional
Retirement Plan for purposes of subsection (6) of this section.
(e) Subsections (8) to (10) of this section do not apply to a post-doctoral scholar participating in
the Optional Retirement Plan.

(12) Both employee and employer contributions to an Optional Retirement Plan shall be remitted
directly to the companies that have issued annuity contracts to the participating employees or di-
rectly to the mutual funds.

(13) Benefits under the Optional Retirement Plan are payable to employees who elect to partic-
ipate in the plan and their beneficiaries by the selected annuity provider or mutual fund in accord-
ance with the terms of the annuity contracts or the terms of the contract with the mutual fund.
Employees electing to participate in the Optional Retirement Plan agree that benefits payable under
the plan are not obligations of the State of Oregon or of the Public Employees Retirement System.

SECTION 14. ORS 341.551 is amended to read:

341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A, the Office of Community
Colleges and Workforce Development may establish and administer an optional retirement plan for
administrative employees of community college districts who are eligible for membership in the
Public Employees Retirement System. Any community college district may participate in the plan
by giving written notice to the office.
(2) An administrative employee may make an election to participate in the optional retirement
plan if the community college district that employs the employee is participating in the plan. The
election must be made in the following manner:
(a) An administrative employee who is an active member of the Public Employees Retirement System may make an election to participate in the plan within 180 days after the community college district commences participation in the plan, effective on the first day of the month following the election.

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

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

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

(5)(a) An administrative employee who elects to participate in the optional retirement plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall be considered by the Public Employees Retirement Board to be a terminated member under the provisions of ORS 238.095 as of the effective date of the election, and the [amount] amounts credited to the member [account] accounts of the member established under ORS 238.250 and 238.260 shall be transferred directly to the optional retirement plan by the Public Employees Retirement Board in the manner provided by subsection (6) of this section.

(b) An administrative employee who elects to participate in the optional retirement plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall be considered to be an inactive member by the Public Employees Retirement Board for a transfer of the amounts credited to the member [account] accounts of the member established under ORS 238.250 and 238.260 to the optional retirement plan. A request for a transfer must be made at the time the member elects to participate in the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall transfer all amounts credited to the member [account] accounts of the member established under ORS 238.250 and 238.260 directly to the optional retirement plan and shall terminate all rights, privileges and options of the employee [under ORS chapter 238] as provided in ORS 238.095.

(c) An administrative employee who elects to participate in the optional retirement plan and who is not a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 An administrative employee who elects to participate in the optional retirement plan and who is a member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that the election becomes effective, but who has not vested in the program under ORS 238A.115 on the date that the election becomes effective, shall be considered to be a terminated member of the pension program by the Public Employees Retirement Board as of the effective date of the election. The board shall
transfer the amounts credited to the member accounts of the member directly to the optional retirement plan in the manner provided by subsection (6) of this section.

(d) An administrative employee who elects to participate in the optional retirement plan and who is a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 on the date that the election becomes effective shall be considered an inactive member of the pension program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the pension program. If the actuarial equivalent of the employee's benefit under the pension program at the time that the election becomes effective is $5,000 or less, the employee may make a written request to the Public Employees Retirement Board for a transfer of the employee’s interest under the pension program to the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit under the pension program directly to the optional retirement plan and shall terminate the membership of the employee in the pension program.

(e) An administrative employee who elects to participate in the optional retirement plan and who is a vested member of the individual account program of the Oregon Public Service Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective shall be considered an inactive member of the individual account program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the individual account program. An administrative employee who elects to participate in the optional retirement plan and who is a member of the individual account program of the Oregon Public Service Retirement Plan may make a written request to the Public Employees Retirement Board that all amounts [in the member's employee account, rollover account and employer account] credited to the member accounts of the member established under ORS 238A.350, to the extent the member is vested in those accounts under ORS 238A.320, be transferred to the optional retirement plan. The request must be made at the time the member elects to participate in the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts directly to the optional retirement plan and shall terminate the membership of the employee in the individual account program.

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

(6) Any amounts transferred from the Public Employees Retirement Fund under subsection (5) of this section shall be transferred directly to the optional retirement plan by the Public Employees Retirement Board and shall not be made available to the employee.

(7) An employee participating in the optional retirement plan shall contribute monthly an amount equal to the percentage of the employee's salary that the employee would otherwise have contributed as an employee contribution to the Public Employees Retirement System if the employee
had not elected to participate in the optional retirement plan.

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

(9) An administrative employee who elects to participate in the optional retirement plan may make an election to withdraw from the plan. An employee may make an election under this subsection only once. Upon withdrawing from the plan:

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

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

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

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

OPERATIVE DATE

SECTION 15. (1) The amendments to ORS 238A.330 by section 6 of this 2019 Act become operative on July 1, 2020.

(2) The Public Employees Retirement Board may take any action before the operative date specified in subsection (1) of this section to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the board by the amendments to ORS 238A.330 by section 6 of this 2019 Act.

RECALCULATION OF EMPLOYER RATES

SECTION 16. (1) As soon as practicable after the effective date of this 2019 Act, the Public Employees Retirement Board shall:

(a) Determine the amount of savings in employer contributions that are attributable to the provisions of this 2019 Act; and

(b) Recalculate the contribution rates of all employers, pursuant to ORS 238.225, to reflect the provisions of this 2019 Act.

(2) The board shall issue corrected contribution rate orders to employers affected by rates recalculated under this section as soon as is practicable after the effective date of this 2019 Act. The corrected rates are effective July 1, 2019.

REVIEW BY SUPREME COURT
SECTION 17. (1) Jurisdiction is conferred upon the Supreme Court to determine in the manner provided by this section whether this 2019 Act breaches any contract between members of the Public Employees Retirement System and their employers or violates any provision of the Oregon Constitution or of the United States Constitution, including but not limited to impairment of contract rights of members of the Public Employees Retirement System under Article I, section 21, of the Oregon Constitution, or Article I, section 10, clause 1, of the United States Constitution.

(2) A person who is adversely affected by this 2019 Act or who will be adversely affected by this 2019 Act may institute a proceeding for review by filing with the Supreme Court a petition that meets the following requirements:

(a) The petition must be filed within 60 days after the effective date of this 2019 Act.

(b) The petition must include the following:

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

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

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

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

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

(6)(a) The Supreme Court shall allow members of the Legislative Assembly to intervene in any proceeding relating to this 2019 Act. After a member intervenes in a proceeding relating to this 2019 Act, the member has standing to participate in the proceeding even if the member ceases to be a member of the Legislative Assembly.

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

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

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

CAPTIONS

SECTION 18. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

EMERGENCY CLAUSE

SECTION 19. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.