

# Senate Bill 533

Sponsored by Senator BENTZ (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**.

Redirects employee contribution to Public Employees Retirement System to account to be used to pay for pension or other retirement benefits payable to member or member's beneficiary accrued on or after January 1, 2020.

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

1  
2 Relating to redirection of the employee contribution under the Public Employees Retirement System;  
3 creating new provisions; amending ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410,  
4 243.800 and 341.551; and declaring an emergency.

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

## REDIRECTION OF EMPLOYEE CONTRIBUTIONS

6  
7  
8  
9 **SECTION 1.** ORS 238A.330 is amended to read:

10 238A.330. (1) A member of the individual account program must make employee contributions  
11 to the individual account program of six percent of the member's salary.

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

15 (3) A new member of the individual account program shall first make contributions under this  
16 section for those wages that are attributable to services performed by the employee during the first  
17 full pay period following the six-month probationary period required under ORS 238A.300, without  
18 regard to when those wages are considered earned for other purposes under this chapter.

19 **SECTION 2.** ORS 238A.350 is amended to read:

20 238A.350. (1) Upon any contributions being made to the individual account program by or on  
21 behalf of a member of the program, the Public Employees Retirement Board shall create the account  
22 or accounts described in this section. Each account shall be adjusted at least annually in accordance  
23 with rules adopted by the board to reflect any net earnings or losses on those contributions and to  
24 pay the reasonable administrative costs of maintaining the program to the extent the earnings on  
25 the assets of the program are insufficient to pay those costs. The adjustments described in this  
26 subsection shall continue until the account is distributed to the member [*or*], **forfeited or applied**  
27 **to pay the costs of a pension or other retirement benefits under subsection (3) of this**  
28 **section.**

**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 (2)(a) The board shall establish an employee account, which shall consist of the employee con-  
2 tributions made by or on behalf of the member **before January 1, 2020**, as adjusted under subsection  
3 (1) of this section.

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

8 **(3)(a) The board shall establish a contributions account, which shall consist of the em-**  
9 **ployee contributions made by or on behalf of the member under ORS 238A.330 on and after**  
10 **January 1, 2020, as adjusted under subsection (1) of this section.**

11 **(b) Unless the amounts in a contributions account established under this subsection are**  
12 **withdrawn under ORS 238A.375, the amounts in the account shall be applied by the board to**  
13 **pay the costs of the pension or other retirement benefits payable to the member or the**  
14 **member's beneficiary under this chapter or ORS chapter 238 that are earned on or after**  
15 **January 1, 2020.**

16 **(c) If the amounts in the contributions account established under this subsection exceed**  
17 **the actuarially projected costs of the pension or other retirement benefits payable to the**  
18 **member or the member's beneficiary under this chapter or ORS chapter 238 that are earned**  
19 **on or after January 1, 2020, the board shall refund the excess amounts to the member upon**  
20 **retirement.**

21 [(3)] (4) If the public employer agrees to make employer contributions under ORS 238A.340, the  
22 board shall establish an employer account, which shall consist of the employer contributions made  
23 on behalf of the member as adjusted under subsection (1) of this section.

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

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

32 **SECTION 3.** ORS 238A.320 is amended to read:

33 238A.320. (1) A member of the individual account program becomes vested in the employee ac-  
34 count established for the member under ORS 238A.350 (2) on the date the employee account is es-  
35 tablished.

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

38 (3) Except as provided in subsection (4) of this section, if an employer makes employer contri-  
39 butions for a member under ORS 238A.340, the member becomes vested in the employer account  
40 established under ORS 238A.350 [(3)] (4) on the earliest of the following dates:

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

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

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

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

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

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

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

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

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

21 **SECTION 4.** ORS 238A.375 is amended to read:

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

29 **(b)(A) An inactive member of the individual account program may elect to receive a dis-**  
 30 **tribution of the amounts in the member's contributions account established for the member**  
 31 **under ORS 238A.350 (3) if:**

32 **(i) The inactive member has separated from all service with participating public employ-**  
 33 **ers and with employers who are treated as part of a participating public employer's con-**  
 34 **trolled group under the federal laws and rules governing the status of the system and the**  
 35 **fund as a qualified governmental retirement plan and trust; and**

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

38 **(B) The withdrawal of the member's accounts under this paragraph cancels all member-**  
 39 **ship rights in the Public Employees Retirement System.**

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

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

45 (4) A member who is vested in the pension program established under this chapter and who is

1 eligible to withdraw from the pension program under ORS 238A.120 may make an election under this  
2 section only if the member also withdraws from the pension program.

3 (5) A member who has a member account established under ORS chapter 238 may make an  
4 election under this section only if the member also withdraws that member account in the manner  
5 provided by ORS 238.265. A member who has an account established under ORS 238.440 may make  
6 an election under this section only if the member also withdraws the account established under ORS  
7 238.440.

8 [(5)] (6) If an inactive member receives a distribution under subsection (1) of this section and is  
9 subsequently reemployed by a participating public employer, any service performed before the date  
10 the member became an inactive member may not be used toward the period of service required for  
11 vesting in the employer account under ORS 238A.320.

12 **SECTION 5.** ORS 238A.410, as amended by section 9, chapter 101, Oregon Laws 2018, is  
13 amended to read:

14 238A.410. (1)(a) If a member of the individual account program dies before retirement, the  
15 amounts in the member's employee account, rollover account and employer account, to the extent  
16 the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the  
17 beneficiary or beneficiaries designated by the member for the purposes of this section.

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

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

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

40 (a) The member's surviving spouse or other person who is constitutionally required to be treated  
41 in the same manner as a spouse;

42 (b) The member's surviving children, in equal shares; or

43 (c) The member's estate.

44 (4) The entire amount of a deceased member's vested accounts must be distributed by December  
45 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other

1 provision of this chapter, distributions of death benefits under the individual account program must  
 2 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-  
 3 plementing that section, as in effect on December 31, 2017. The [*Public Employees Retirement*] board  
 4 shall adopt rules implementing those minimum distribution requirements.

5 **SECTION 6.** ORS 243.800 is amended to read:

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

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

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

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

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

27 (4) An administrative or academic employee who is eligible to remain or become a member of  
 28 the Public Employees Retirement System and who does not elect to participate in the Optional Re-  
 29 tirement Plan:

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

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

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

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

45 (b) An administrative or academic employee who elects to participate in the Optional Retirement

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

12 (c) *[An administrative or academic employee who elects to participate in the Optional Retirement*  
13 *Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement*  
14 *Plan as described in ORS 238A.115]* **An administrative or academic employee who elects to**  
15 **participate in the Optional Retirement Plan and who is a member of the pension program**  
16 **of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that**  
17 **the election becomes effective, but who has not vested in the program under ORS 238A.115**  
18 on the date that the election becomes effective, shall be considered to be a terminated member of  
19 the pension program by the Public Employees Retirement Board as of the effective date of the  
20 election. **The board shall transfer the amounts credited to the member accounts of the**  
21 **member directly to the Optional Retirement Plan in the manner provided by subsection (7)**  
22 **of this section.**

23 (d) An administrative or academic employee who elects to participate in the Optional Retirement  
24 Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement  
25 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be consid-  
26 ered an inactive member of the pension program by the Public Employees Retirement Board as of  
27 the effective date of the election. An employee who is subject to the provisions of this paragraph  
28 retains all the rights, privileges and options of an inactive member of the pension program. If the  
29 actuarial equivalent of the employee's benefit under the pension program at the time that the  
30 election becomes effective is \$5,000 or less, the employee may make a written request to the Public  
31 Employees Retirement Board for a transfer of the employee's interest under the pension program to  
32 the Optional Retirement Plan. The request must be made at the time the member elects to partic-  
33 ipate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement  
34 Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit  
35 under the pension program directly to the Optional Retirement Plan, and shall terminate the mem-  
36 bership of the employee in the pension program.

37 (e) An administrative or academic employee who elects to participate in the Optional Retirement  
38 Plan, and who is a vested member of the individual account program of the Oregon Public Service  
39 Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall  
40 be considered an inactive member of the individual account program by the Public Employees Re-  
41 tirement Board as of the effective date of the election. An employee who is subject to the provisions  
42 of this paragraph retains all the rights, privileges and options of an inactive member of the indi-  
43 vidual account program. An administrative or academic employee who elects to participate in the  
44 Optional Retirement Plan, and who is a member of the individual account program of the Oregon  
45 Public Service Retirement Plan, may make a written request to the Public Employees Retirement

1 Board that all amounts [*in the member's employee account, rollover account and employer account*]  
2 **credited to the member accounts of the member established under ORS 238A.350**, to the extent  
3 the member is vested in those accounts under ORS 238A.320, be transferred to the Optional Retirement  
4 Plan. The request must be made at the time the member elects to participate in the Optional  
5 Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer  
6 the amounts directly to the Optional Retirement Plan, and shall terminate the membership of the  
7 employee in the individual account program upon making the transfer.

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

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

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

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

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

30 (a) Eight percent of the employee's salary; and

31 (b) A percentage of the employee's salary equal to the percentage of salary contributed by the  
32 employee to the public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820, up to  
33 four percent of the employee's salary in each pay period.

34 (11)(a) Unless otherwise prohibited by law, a person employed in a position classified as a  
35 post-doctoral scholar position under ORS 350.370 is an academic employee under subsection (1) of  
36 this section and becomes a participant in the Optional Retirement Plan when the person participates  
37 in the public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820.

38 (b) Participation in the Optional Retirement Plan under this subsection becomes effective on the  
39 first day of the month following the later of:

40 (A) Enrollment in the public university's Tax-Deferred Investment 403(b) Plan under ORS  
41 243.820; or

42 (B) Completion of:

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

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

1 (c) For a post-doctoral scholar participating in the Optional Retirement Plan, the governing  
 2 board shall contribute monthly to the Optional Retirement Plan a percentage of the post-doctoral  
 3 scholar's salary equal to the percentage of salary contributed by the post-doctoral scholar to the  
 4 public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820, up to four percent of the  
 5 post-doctoral scholar's salary in each pay period.

6 (d) A post-doctoral scholar is an academic employee who elects to participate in the Optional  
 7 Retirement Plan for purposes of subsection (6) of this section.

8 (e) Subsections (8) to (10) of this section do not apply to a post-doctoral scholar participating in  
 9 the Optional Retirement Plan.

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

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

18 **SECTION 7.** ORS 341.551 is amended to read:

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

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

27 (a) An administrative employee who is an active member of the Public Employees Retirement  
 28 System may make an election to participate in the plan within 180 days after the community college  
 29 district commences participation in the plan, effective on the first day of the month following the  
 30 election.

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

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

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

45 (5)(a) An administrative employee who elects to participate in the optional retirement plan, who



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

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

19 (c) *[An administrative employee who elects to participate in the optional retirement plan and who*  
20 *is not a vested member of the pension program of the Oregon Public Service Retirement Plan as de-*  
21 *scribed in ORS 238A.115]* **An administrative employee who elects to participate in the optional**  
22 **retirement plan and who is a member of the pension program of the Oregon Public Service**  
23 **Retirement Plan as described in ORS 238A.100 on the date that the election becomes effec-**  
24 **tive, but who has not vested in the program under ORS 238A.115** on the date that the election  
25 becomes effective, shall be considered to be a terminated member of the pension program by the  
26 Public Employees Retirement Board as of the effective date of the election. **The board shall**  
27 **transfer the amounts credited to the member accounts of the member directly to the op-**  
28 **tional retirement plan in the manner provided by subsection (6) of this section.**

29 (d) An administrative employee who elects to participate in the optional retirement plan and  
30 who is a vested member of the pension program of the Oregon Public Service Retirement Plan as  
31 described in ORS 238A.115 on the date that the election becomes effective shall be considered an  
32 inactive member of the pension program by the Public Employees Retirement Board as of the ef-  
33 fective date of the election. An employee who is subject to the provisions of this paragraph retains  
34 all the rights, privileges and options of an inactive member of the pension program. If the actuarial  
35 equivalent of the employee's benefit under the pension program at the time that the election be-  
36 comes effective is \$5,000 or less, the employee may make a written request to the Public Employees  
37 Retirement Board for a transfer of the employee's interest under the pension program to the optional  
38 retirement plan. The request must be made at the time the member elects to participate in the op-  
39 tional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall  
40 transfer the amount determined to be the actuarial equivalent of the employee's benefit under the  
41 pension program directly to the optional retirement plan and shall terminate the membership of the  
42 employee in the pension program.

43 (e) An administrative employee who elects to participate in the optional retirement plan and  
44 who is a vested member of the individual account program of the Oregon Public Service Retirement  
45 Plan as described in ORS 238A.320 on the date that the election becomes effective shall be consid-

1 ered an inactive member of the individual account program by the Public Employees Retirement  
2 Board as of the effective date of the election. An employee who is subject to the provisions of this  
3 paragraph retains all the rights, privileges and options of an inactive member of the individual ac-  
4 count program. An administrative employee who elects to participate in the optional retirement plan  
5 and who is a member of the individual account program of the Oregon Public Service Retirement  
6 Plan may make a written request to the Public Employees Retirement Board that all amounts [*in the*  
7 *member's employee account, rollover account and employer account*] **credited to the member ac-**  
8 **counts of the member established under ORS 238A.350**, to the extent the member is vested in  
9 those accounts under ORS 238A.320, be transferred to the optional retirement plan. The request  
10 must be made at the time the member elects to participate in the optional retirement plan. Upon  
11 receiving the request, the Public Employees Retirement Board shall transfer the amounts directly  
12 to the optional retirement plan and shall terminate the membership of the employee in the individual  
13 account program.

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

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

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

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

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

38 (a) All contributions made to the plan before the effective date of the withdrawal remain cred-  
39 ited to the employee;

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

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

44 (10) For the purposes of this section, "administrative employee" means a president, vice presi-  
45 dent or dean, or a person holding a position that is the equivalent of a president, vice president or

1 dean.

2 **SECTION 8. (1) The amendments to ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410,**  
 3 **243.800 and 341.551 by sections 1 to 7 of this 2019 Act become operative on January 1, 2020.**

4 **(2) The Public Employees Retirement Board may take any action before the operative**  
 5 **date specified in subsection (1) of this section to enable the board to exercise, on and after**  
 6 **the operative date specified in subsection (1) of this section, all the duties, functions and**  
 7 **powers conferred on the board by the amendments to ORS 238A.320, 238A.330, 238A.350,**  
 8 **238A.375, 238A.410, 243.800 and 341.551 by sections 1 to 7 of this 2019 Act.**

9  
 10 **RECALCULATION OF EMPLOYER RATES**

11  
 12 **SECTION 9. (1) As soon as practicable after the effective date of this 2019 Act, the Public**  
 13 **Employees Retirement Board shall:**

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

16 **(b) Recalculate the contribution rates of all employers, pursuant to ORS 238.225, to re-**  
 17 **fect the provisions of this 2019 Act.**

18 **(2) The board shall issue corrected contribution rate orders to employers affected by**  
 19 **rates recalculated under this section as soon as is practicable after the effective date of this**  
 20 **2019 Act. The corrected rates are effective July 1, 2019.**

21  
 22 **REVIEW BY SUPREME COURT**

23  
 24 **SECTION 10. (1) Jurisdiction is conferred upon the Supreme Court to determine in the**  
 25 **manner provided by this section whether this 2019 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 2019 Act or who will be adversely affected**  
 32 **by this 2019 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 2019 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 2019 Act. After a member intervenes in a proceeding re-  
2 lating to this 2019 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 a pro-  
5 ceeding under this subsection may not use public funds to pay legal expenses incurred in  
6 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.

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

12  
13 **CAPTIONS**

14  
15 **SECTION 11.** The unit captions used in this 2019 Act are provided only for the conven-  
16 ience of the reader and do not become part of the statutory law of this state or express any  
17 legislative intent in the enactment of this 2019 Act.

18  
19 **EMERGENCY CLAUSE**

20  
21 **SECTION 12.** This 2019 Act being necessary for the immediate preservation of the public  
22 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect  
23 on its passage.  
24