

Requested by JOINT COMMITTEE ON WAYS AND MEANS

**PROPOSED AMENDMENTS TO
SENATE BILL 1049**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; amending ORS 238.005, 238.105, 238.115, 238.265, 238.300, 238.305,
3 238.320, 238.325, 238.395, 238.580, 238.694, 238.695, 238.698, 238A.005, 238A.110,
4 238A.120, 238A.320, 238A.330, 238A.335, 238A.375, 238A.410, 243.800, 341.551
5 and 461.010 and sections 1, 2, 3, 3b, 13, 15, 24, 26 and 29, chapter 105, Oregon
6 Laws 2018, and sections 2 and 3, chapter 118, Oregon Laws 2018; repealing
7 section 4, chapter 118, Oregon Laws 2018; and declaring an emergency”.

8 Delete lines 4 through 6 and insert:
9

10 **“EMPLOYEE CONTRIBUTIONS**

11
12 **“SECTION 1.** ORS 238A.330 is amended to read:

13 “238A.330. (1) A member of the individual account program must make
14 employee contributions to the individual account program of six percent of
15 the member’s salary.

16 “(2) Employee contributions made by a member of the individual account
17 program under this section shall be credited by the **Public Employees Re-**
18 **irement** Board [*to the employee account established for the member under*
19 *ORS 238A.350 (2).*] **as follows:**

20 **“(a) Except as provided in paragraph (c) of this subsection, for a**
21 **member who established membership in the Public Employees Retire-**

1 **ment System before August 29, 2003, as described in ORS 238A.025:**

2 **“(A) If the member’s salary does not exceed \$2,500 in a calendar**
3 **month, the board shall credit all employee contributions made by the**
4 **member under this section to the employee account established for the**
5 **member under ORS 238A.350 (2).**

6 **“(B) If the member’s salary exceeds \$2,500 in a calendar month, the**
7 **board shall credit:**

8 **“(i) 3.5 percent of the member’s salary to the employee account**
9 **established for the member under ORS 238A.350 (2); and**

10 **“(ii) 2.5 percent of the member’s salary to the employee pension**
11 **stability account established for the member under section 3 of this**
12 **2019 Act.**

13 **“(b) Except as provided in paragraph (c) of this subsection, for a**
14 **member who established membership in the system on or after August**
15 **29, 2003, as described in ORS 238A.025:**

16 **“(A) If the member’s salary does not exceed \$2,500 in a calendar**
17 **month, the board shall credit all employee contributions made by the**
18 **member under this section to the employee account established for the**
19 **member under ORS 238A.350 (2).**

20 **“(B) If the member’s salary exceeds \$2,500 in a calendar month, the**
21 **board shall credit:**

22 **“(i) 5.25 percent of the member’s salary to the employee account**
23 **established for the member under ORS 238A.350 (2); and**

24 **“(ii) 0.75 percent of the member’s salary to the employee pension**
25 **stability account established for the member under section 3 of this**
26 **2019 Act.**

27 **“(c) During a biennium following a rate setting valuation prepared**
28 **by the actuary under ORS 238.605 that shows that the funded status**
29 **of the system, including any lump sum payments made under ORS**
30 **238.229, is 90 percent or greater, the board shall credit all employee**

1 **contributions made by a member of the individual account program**
2 **to the employee account established for the member under ORS**
3 **238A.350 (2).**

4 **“(3) If any contributions made by a member of the individual ac-**
5 **count program are credited to the employee pension stability account**
6 **under subsection (2) of this section, the member may make additional**
7 **employee contributions to the individual account program in the**
8 **amount credited to the employee pension stability account. The board**
9 **shall credit employee contributions made under this subsection to the**
10 **employee account established for the member under ORS 238A.350 (2).**
11 **Contributions under this subsection may not be paid by the employer**
12 **under ORS 238A.335.**

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

19 **“(5) On January 1 of each year, the board shall adjust the dollar**
20 **amounts provided in subsection (2) of this section to reflect any per-**
21 **centage increase in the cost of living for the previous calendar year,**
22 **based on changes in the Consumer Price Index for All Urban Con-**
23 **sumers, West Region (All Items), as published by the Bureau of Labor**
24 **Statistics of the United States Department of Labor.**

25 **“SECTION 2. Section 3 of this 2019 Act is added to and made a part**
26 **of ORS chapter 238A.**

27 **“SECTION 3. Employee pension stability accounts established. (1)**
28 **The Public Employees Retirement Board shall establish an employee**
29 **pension stability account for each active member of the Public Em-**
30 **ployees Retirement System.**

1 “(2) Each account established under this section shall be adjusted
2 at least annually in accordance with rules adopted by the board to
3 reflect any net earnings or losses on the amounts in the account. The
4 adjustments described in this subsection shall continue until the
5 amounts in the account are withdrawn or applied against the costs of
6 the pension or other retirement benefits that are payable to the
7 member or the member’s beneficiary under this chapter or ORS
8 chapter 238.

9 “(3)(a) Unless the amounts in an account established under this
10 section are withdrawn under ORS 238A.375, the amounts in the ac-
11 count established under this section shall be applied by the board to
12 pay the costs of the pension or other retirement benefits that are
13 payable to the member or the member’s beneficiary under this chapter
14 or ORS chapter 238 and that accrue on or after July 1, 2020.

15 “(b) If the amounts in the account established under this section
16 exceed the costs of the pension or other retirement benefits that are
17 payable to the member or the member’s beneficiary under this chapter
18 or ORS chapter 238 and that accrue on or after July 1, 2020, the board
19 shall refund the excess amounts in a lump sum to the member or the
20 member’s beneficiary.

21 “**SECTION 4.** ORS 238A.110 is amended to read:

22 “238A.110. Membership under the pension program terminates when:

23 “(1) A member dies;

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

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

26 “**SECTION 5.** ORS 238A.120 is amended to read:

27 “238A.120. [(1) A vested inactive member may withdraw from the pension
28 program if:]

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

1 “[b] *The inactive member has separated from all service with participating*
2 *public employers and with employers who are treated as part of a participating*
3 *public employer’s controlled group under the federal laws and rules governing*
4 *the status of the system and the fund as a qualified governmental retirement*
5 *plan and trust.*]

6 “[2] *Upon withdrawal under this section, the Public Employees Retirement*
7 *Board shall pay the withdrawing member the actuarial equivalent of the*
8 *member’s benefit in a lump sum.*]

9 “[3] *If a vested inactive member withdraws from the pension program un-*
10 *der this section and is thereafter reemployed by a participating public em-*
11 *ployer:]* **A vested inactive member who withdraws from the individual**
12 **account program under ORS 238A.375 cancels the person’s membership**
13 **in the Public Employees Retirement System. If the person is thereafter**
14 **reemployed by a participating public employer:**

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

17 “[b] (2) Any service performed before the withdrawal may not be cred-
18 ited toward the period of service required by ORS 238A.100 or 238A.115 or
19 toward the accrual of retirement credit under ORS 238A.140, 238A.150 or
20 238A.155.

21 “[4] *A member who has an individual account or accounts in the individ-*
22 *ual account program established under ORS 238A.025 may withdraw from the*
23 *pension program under this section only if the member also withdraws all in-*
24 *dividual accounts pursuant to ORS 238A.375. A member who has a member*
25 *account established under ORS chapter 238 may withdraw from the pension*
26 *program under this section only if the member also withdraws that member*
27 *account in the manner provided by ORS 238.265. A member who has an ac-*
28 *count established under ORS 238.440 may withdraw from the pension program*
29 *under this section only if the member also withdraws the account established*
30 *under ORS 238.440.*]

1 “[5] *For the purposes of this section, the actuarial equivalent of a member’s*
2 *benefit does not include any value attributable to adjustments to the benefit*
3 *under ORS 238A.210.*]

4 **“SECTION 6.** ORS 238A.320 is amended to read:

5 “238A.320. (1) A member of the individual account program becomes
6 vested in the employee account established for the member under ORS
7 238A.350 (2) on the date the employee account is established.

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

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

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

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

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

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

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

26 “(4) If on the date that a person becomes an active member the person
27 has already reached the normal retirement age for the person under ORS
28 238A.160, and the employer makes employer contributions for the member
29 under ORS 238A.340, the person is vested in the employer account established
30 under ORS 238A.350 (3) on that date.

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

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

13 “(7) **A member becomes vested in the employee pension stability**
14 **account established for the member under section 3 of this 2019 Act**
15 **on the date the employee pension stability account is established.**

16 “**SECTION 7.** ORS 238A.335 is amended to read:

17 “238A.335. (1) A participating public employer may agree, by a written
18 employment policy or by a collective bargaining agreement, to pay the em-
19 ployee contribution required under ORS 238A.330 (1). The policy or agree-
20 ment need not include all members of the individual account program
21 employed by the employer.

22 “(2) An agreement under this section [*to pay the required employee con-*
23 *tribution*] may provide that:

24 “(a) **Amounts be deducted from** employee compensation [*be reduced*] to
25 generate the funds needed to make [*the*] employee contributions; or

26 “(b) Additional amounts be paid by the employer for the purpose of mak-
27 ing [*the*] employee contributions[, *and employee compensation not be reduced*
28 *for the purpose of generating the funds needed to make the employee contri-*
29 *butions*].

30 “(3) A participating public employer must give written notice to the

1 Public Employees Retirement Board at the time that [*a written employment*
2 *policy or collective bargaining agreement described in*] **an agreement under**
3 subsection (1) of this section is adopted or changed. The notice must specif-
4 ically indicate whether the agreement is as described in subsection (2)(a) or
5 (b) of this section. [*Any change in the manner in which employee contributions*
6 *are to be paid applies only to employee contributions made on and after the*
7 *date the notice is received by the board.*] **An agreement under this section,**
8 **and any change to an agreement under this section, applies only to**
9 **employee contributions for pay periods beginning on or after the date**
10 **that the notice is received by the board.**

11 **“SECTION 8.** ORS 238A.375 is amended to read:

12 “238A.375. (1) An inactive member of the individual account program may
13 elect to receive a distribution of the amounts in the member’s employee ac-
14 count, rollover account, [*and*] employer account **and employee pension**
15 **stability account** to the extent the member is vested in those accounts un-
16 der ORS 238A.320 if the inactive member has separated from all service with
17 participating public employers and with employers who are treated as part
18 of a participating public employer’s controlled group under the federal laws
19 and rules governing the status of the **Public Employees Retirement System**
20 and the **Public Employees Retirement Fund** as a qualified governmental
21 retirement plan and trust.

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

26 “(3) A member may not make an election under this section for less than
27 all of the member’s individual accounts described in ORS 238A.350, **and the**
28 **member’s employee pension stability account described in section 3 of**
29 **this 2019 Act**, in which the member is vested.

30 “(4) A member who is vested in the pension program established under

1 this chapter and who [*is eligible to withdraw from the pension program under*
2 *ORS 238A.120 may make an election under this section only if the member also*
3 *withdraws from the pension program*] **withdraws the member's accounts**
4 **under this section cancels all membership rights in the system.**

5 “(5) A member who has a member account established under ORS chapter
6 238 may make an election under this section only if the member also with-
7 draws that member account in the manner provided by ORS 238.265. A
8 member who has an account established under ORS 238.440 may make an
9 election under this section only if the member also withdraws the account
10 established under ORS 238.440.

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

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

18 “238A.410. (1)(a) If a member of the individual account program dies be-
19 fore retirement, the amounts in the member's employee account, rollover
20 account and employer account, to the extent the member is vested in those
21 accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary
22 or beneficiaries designated by the member for the purposes of this section.

23 “(b) **If a member of the individual account program dies before re-**
24 **tirement, the amounts in the employee pension stability account es-**
25 **tablished for the member under section 3 of this 2019 Act shall be**
26 **applied by the Public Employees Retirement Board to pay the costs**
27 **of any benefit payable under ORS 238.395 or 238A.230 that accrues on**
28 **or after July 1, 2020. If the amounts in the employee pension stability**
29 **account exceed the costs of the benefit payable under ORS 238.395 or**
30 **238A.230 that accrues on or after July 1, 2020, the excess amounts shall**

1 **be paid in a lump sum to the beneficiary or beneficiaries designated**
2 **by the member for the purposes of this section.**

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

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

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

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

27 “(c) The member’s estate.

28 “(4) The entire amount of a deceased member’s vested accounts must be
29 distributed by December 31 of the fifth calendar year after the year in which
30 the member died. Notwithstanding any other provision of this chapter, dis-

1 tributions of death benefits under the individual account program must
2 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9)
3 and the regulations implementing that section, as in effect on December 31,
4 2017. The Public Employees Retirement Board shall adopt rules implementing
5 those minimum distribution requirements.

6 **“SECTION 10.** ORS 238.105 is amended to read:

7 “238.105. (1) Whenever, within five years after the employee is separated
8 from all service entitling the employee to membership in the **Public Em-**
9 **ployees Retirement** System, an employee who has withdrawn the amount
10 credited to the member account of the member reenters the service of an
11 employer participating in the system, the employee’s rights in the system
12 that were forfeited by the withdrawal shall be restored upon repaying to the
13 **Public Employees Retirement** Board within one year after reentering the
14 service of the employer, the full amount so withdrawn together with the in-
15 terest that would have been accumulated on the sum had the amount not
16 been withdrawn.

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

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

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

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

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

23 “238.115. (1)(a) A member of the **Public Employees Retirement** System
24 who, after separation from all service entitling the employee to membership
25 in the system and withdrawal of the amount credited to the member account
26 of the member, reenters the service of an employer participating in the sys-
27 tem and serves as an active member of the system for 10 years after that
28 reentry, and who has not otherwise obtained restoration of creditable service
29 forfeited by the withdrawal, shall obtain restoration of one full month of
30 creditable service forfeited by the withdrawal for each three full months of

1 service as an active member after that reentry if the member, within 90 days
2 before the effective date of retirement of the member:

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

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

10 “(b) If a member who obtains restoration of creditable service as provided
11 in this subsection does not obtain restoration of all creditable service for-
12 feited by the withdrawal pursuant to service after reentry, the payment un-
13 der paragraph (a) of this subsection shall be reduced proportionately to
14 reflect the percentage of creditable service restored.

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

18 “(2) A member who forfeited creditable service rendered to a public em-
19 ployer before March 27, 1953, because under ORS 237.976 (2) the employee
20 withdrew contributions of the employee to the Public Employees Retirement
21 System established by chapter 401, Oregon Laws 1945, and who did not obtain
22 restoration of creditable service so forfeited as provided in chapter 857,
23 Oregon Laws 1977, shall, upon retirement, receive restoration of creditable
24 service so forfeited, if the member, before the effective date of retirement of
25 the member:

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

28 “(b) Pays to the board in a lump sum for credit to the member account
29 of the member an amount determined by the board to be equal to the full
30 amount of contributions so withdrawn and the interest that would have ac-

1 cumulated to the regular account of the member had those contributions not
2 been withdrawn.

3 “(3)(a) A member of the Public Employees Retirement System who was a
4 member of an association established pursuant to ORS chapter 239 (1997
5 Edition), but separated from all service entitling the employee to membership
6 in the system of the association and withdrew the amount credited to the
7 member account of the employee in the retirement fund of the association,
8 and who, after that separation, entered the service of an employer in the
9 field of education participating in the Public Employees Retirement System
10 and served as an active member of that system for 10 years after that entry,
11 and who has not otherwise obtained restoration of all creditable service
12 forfeited by the withdrawal, shall obtain creditable service as a member of
13 the Public Employees Retirement System equal to all creditable service for-
14 feited by the withdrawal if the member within 90 days before the effective
15 date of retirement of the member:

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

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

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

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

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

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

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

2 **“SECTION 12.** ORS 238.265 is amended to read:

3 “238.265. (1) Except as otherwise provided in this section, a member of the
4 Public Employees Retirement System may withdraw from the Public Em-
5 ployees Retirement Fund the amount credited to the member account, if any,
6 for the member if:

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

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

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

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

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

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

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

25 “(3) If a member has contributed to the fund in each of five calendar years
26 and has separated from all service in the manner described in subsection (1)
27 of this section before reaching earliest service retirement age, the member
28 may elect to withdraw the member account of the member under this section
29 at any time before reaching earliest service retirement age. If the inactive
30 member does not make an election to withdraw under this section, the

1 member shall be paid the benefits or retirement allowances described in ORS
2 238.425.

3 “(4) [*A member who is vested in the pension program established under*
4 *ORS chapter 238A and who is eligible to withdraw from the pension program*
5 *under ORS 238A.120 may withdraw a member account under this section only*
6 *if the member also withdraws from the pension program.*] A member who has
7 an individual account or accounts in the individual account program estab-
8 lished under ORS chapter 238A may withdraw a member account under this
9 section only if the member also withdraws all individual accounts pursuant
10 to ORS 238A.375. A member who has an account established under ORS
11 238.440 may withdraw a member account under this section only if the
12 member also withdraws the account established under ORS 238.440.

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

16 “**SECTION 13.** ORS 238.300 is amended to read:

17 “238.300. Upon retiring from service at normal retirement age or there-
18 after, a member of the **Public Employees Retirement** System shall receive
19 a service retirement allowance which shall consist of the following annuity
20 and pensions:

21 “(1) A refund annuity which shall be the actuarial equivalent of accu-
22 mulated contributions, if any, by the member **under this chapter** and in-
23 terest thereon credited at the time of retirement, which annuity shall provide
24 an allowance payable during the life of the member and at death a lump sum
25 equal in amount to the difference between accumulated contributions at the
26 time of retirement and the sum of the annuity payments actually made to the
27 member during life shall be paid to such person, if any, as the member
28 nominates by written designation duly acknowledged and filed with the
29 board or shall otherwise be paid according to the provisions of this chapter
30 for disposal of an amount credited to the member account of a member at the

1 time of death in the event the member designates no beneficiary to receive
2 the amount or no such beneficiary is able to receive the amount. If death
3 of the member occurs before the first payment is due, the member account
4 of the member shall be treated as though death had occurred before retire-
5 ment.

6 “(2)(a) A life pension (nonrefund) for current service provided by the
7 contributions of employers **and, for pension benefits that accrue on or**
8 **after July 1, 2020, amounts in the employee pension stability account**
9 **established for the member under section 3 of this 2019 Act**, which
10 pension, subject to paragraph (b) of this subsection, shall be an amount
11 which, when added to the sum of the annuity, if any, under subsection (1)
12 of this section and the annuity, if any, provided on the same basis and pay-
13 able from the Variable Annuity Account, both annuities considered on a re-
14 fund basis, results in a total of:

15 “(A) For service as a police officer or firefighter, two percent of final
16 average salary multiplied by the number of years of membership in the sys-
17 tem as a police officer or firefighter before the effective date of retirement.

18 “(B) For service as other than a police officer or firefighter, including
19 service as a member of the Legislative Assembly, 1.67 percent of final aver-
20 age salary multiplied by the number of years of membership in the system
21 as other than a police officer or firefighter before the effective date of re-
22 tirement.

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

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

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

30 “(ii) The person performed any period of service for a participating public

1 employer before July 1, 2003, that is credited to the six-month period of em-
2 ployment required of an employee under ORS 238.015 before an employee may
3 become a member of the system.

4 “(B) For a member who made contributions before August 21, 1981, the
5 equivalent of a pension computed pursuant to this subsection as it existed
6 immediately before that date.

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

1 of so reentering.

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

6 **“SECTION 14.** ORS 238.305 is amended to read:

7 “238.305. (1) Not later than 60 days after the first benefit payment is made
8 to a retired member of the Public Employees Retirement System, the member
9 may elect to convert the allowance described by ORS 238.300 as payable after
10 retirement into a service retirement annuity of equivalent actuarial value
11 of one of the optional forms named below. The election of Option 2, 2A, 3
12 or 3A shall be effective immediately upon the member’s retirement.

13 “Option 1. (a) A life annuity (nonrefund) payable during the member’s life
14 only, which shall be the actuarial equivalent of accumulated contributions
15 by the member **under this chapter** and interest thereon credited at the time
16 of retirement (if death occurs before the first payment is due, the member
17 account shall be treated as though death had occurred before retirement); (b)
18 a life pension (nonrefund) provided by the contributions of employers as
19 provided in ORS 238.300 (2) **and, for pension benefits that accrue on or**
20 **after July 1, 2020, amounts in the employee pension stability account**
21 **established for the member under section 3 of this 2019 Act;** (c) an ad-
22 ditional nonrefund pension for prior service credit, including military ser-
23 vice, credited to the member at the time of first becoming a member of the
24 system, as elsewhere provided in this chapter, which pension shall be pro-
25 vided by the contributions of the employer; or

26 “Option 2. A reduced service retirement allowance payable during the
27 member’s life, with the provision that it continue after death for the life of
28 the beneficiary the member nominates by written designation duly acknowl-
29 edged and filed with the Public Employees Retirement Board at the time of
30 election, should the beneficiary survive the member; or

1 “Option 2A. A reduced service retirement allowance payable during the
2 member’s life which, unless modified under subsection (6) of this section,
3 continues after death for the life of the beneficiary the member nominates
4 by written designation duly acknowledged and filed with the board at the
5 time of election, should the beneficiary survive the member; or

6 “Option 3. A reduced service retirement allowance payable during the
7 member’s life, with the provision that it continue after death at one-half the
8 rate paid to the member and be paid for the life of the beneficiary the
9 member nominates by written designation duly acknowledged and filed with
10 the board at the time of election, should the beneficiary survive the member;
11 or

12 “Option 3A. A reduced service retirement allowance payable during the
13 member’s life which, unless modified under subsection (6) of this section,
14 continues after death at one-half the rate paid to the member and is paid for
15 the life of the beneficiary the member nominates by written designation duly
16 acknowledged and filed with the board at the time of election, should the
17 beneficiary survive the member; or

18 “Option 4. A reduced service retirement allowance payable during the
19 member’s life, with the provisions that if the member dies before a total of
20 180 monthly payments is made, the remainder of the 180 monthly payments
21 shall be paid monthly to the beneficiary the member nominates by written
22 designation duly acknowledged and filed with the board at any time before
23 the member’s death; and that if the member designates no beneficiary to re-
24 ceive the monthly payments or no such beneficiary is able to receive the
25 monthly payments, an amount equal to the actuarial value, on the date of
26 the member’s death, of the total of the monthly payments not made to the
27 member shall be paid according to ORS 238.390 for disposal of an amount
28 credited to the member account of a member at the time of death; and that
29 if the beneficiary receiving monthly payments dies before the total number
30 of monthly payments to which the beneficiary is entitled is made, an amount

1 equal to the actuarial value, on the date of the beneficiary's death, of the
2 total of the monthly payments not made to the member and beneficiary shall
3 be paid according to ORS 238.390 for disposal of an amount credited to the
4 member account of a member at the time of death and as if the beneficiary
5 had been a member.

6 “(2) Not later than 60 days after the first benefit payment is made to a
7 retired member of the system, the member may elect, in lieu of the allowance
8 described by ORS 238.300 as payable after retirement, a service retirement
9 benefit consisting of:

10 “(a) A refund of accumulated contributions by the member **under this**
11 **chapter** and interest thereon credited at the time of refund; and

12 “(b) A life pension (nonrefund) provided by the contributions of employers
13 as provided in ORS 237.147 (2) (1979 Replacement Part) **and, for pension**
14 **benefits that accrue on or after July 1, 2020, amounts in the employee**
15 **pension stability account established for the member under section 3**
16 **of this 2019 Act**, and an additional life pension (nonrefund) for prior service
17 credit as provided in ORS 238.300 (3). At the same time as making the
18 election under this subsection, the member may elect to convert the pensions
19 described by this paragraph into a service retirement annuity of equivalent
20 actuarial value of one of the optional forms named as Option 2, 2A, 3 or 3A
21 under subsection (1) of this section.

22 “(3) Not later than 60 days after the first benefit payment is made to a
23 retired member of the system, the member may elect in lieu of the allowance
24 described by ORS 238.300 a refund service retirement benefit consisting of:

25 “(a) A refund of accumulated contributions by the member **under this**
26 **chapter** and interest thereon credited at the time of retirement;

27 “(b) An amount that matches the amount of accumulated contributions
28 by the member and interest thereon, provided by the contributions of em-
29 ployers **and, for pension benefits that accrue on or after July 1, 2020,**
30 **amounts in the employee pension stability account established for the**

1 **member under section 3 of this 2019 Act;** and

2 “(c) Interest on the amounts described in paragraphs (a) and (b) of this
3 subsection from the effective date of retirement until the amounts are paid.

4 “(4)(a) If the member elects to receive the service retirement benefit de-
5 scribed in subsection (2) or (3) of this section, the member shall elect at the
6 same time to receive the refund described in subsection (2)(a) or (3) of this
7 section in one lump sum payment or in more than one but not more than five
8 installment payments. If the member elects installment payments:

9 “(A) The amount to be paid **under subsection (3)(b) of this section** by
10 employer contributions [*under subsection (3)(b) of this section*] **and amounts**
11 **in the employee pension stability account established for the member**
12 **under section 3 of this 2019 Act** shall be transferred to the individual ac-
13 count of the member in the Public Employees Retirement Fund as of the ef-
14 fective date of retirement.

15 “(B) The installment payments shall be paid once each year for the num-
16 ber of consecutive years equal to the number of installment payments
17 elected.

18 “(C) The amount of each installment payment shall be designated by the
19 member at the time of making the election, but the last installment payment
20 shall be the unrefunded balance remaining in the member account of the
21 member in the fund.

22 “(D) The member account of the member in the fund shall be maintained
23 until the last installment payment is paid. The board shall establish proce-
24 dures for computing and crediting interest annually on the unrefunded bal-
25 ance of the member account.

26 “(E) A yearly installment payment shall be paid on the anniversary of the
27 date of the first installment payment.

28 “(F) The member is considered to have elected to transfer any balance in
29 the variable account of the member to the regular account of the member.

30 “(G) If the member dies before payment of all installment payments, the

1 unrefunded balance in the member account of the member plus interest to
2 date of disbursement is payable as provided in ORS 238.390 (4).

3 “(b) If a member elects to receive the refund service retirement benefit
4 described in subsection (3) of this section, and does not elect to receive those
5 amounts in installments under the provisions of this subsection, all rights
6 of the member in the system shall terminate upon the payment of the
7 amounts provided for in subsection (3) of this section, except as provided in
8 paragraph (c) of this subsection. If a member elects to receive the refund
9 service retirement benefit described in subsection (3) of this section, and also
10 elects to receive those amounts in installments under the provisions of this
11 subsection, all rights of the member in the system shall terminate upon the
12 making of the first payment, except as provided in paragraph (c) of this
13 subsection.

14 “(c) A member who elects to receive the refund service retirement benefit
15 described in subsection (3) of this section, and any eligible spouse or de-
16 pendent of the member, shall continue to be eligible for insurance under ORS
17 238.410, and for any premium payments the member may be entitled to under
18 ORS 238.415 and 238.420.

19 “(5) The designation of a beneficiary, the election of an option or any
20 other election or designation under subsection (1), (2), (3) or (4) of this sec-
21 tion may be changed by the member within 60 days after the date of the first
22 benefit payment, except that the designation of a beneficiary under Option
23 4 may be changed by the member at any time before the member’s death.

24 “(6) If a retired member has elected to receive a service retirement al-
25 lowance under Option 2A or Option 3A as provided in subsection (1) of this
26 section, and if the beneficiary under that option dies after the expiration of
27 the time within which the member could change the election of an option
28 or if the beneficiary is the spouse of the member and the marriage relation-
29 ship is terminated as provided by law after the expiration of the time within
30 which the member could change the election of an option, the member may

1 elect to receive, in lieu of the optional form of allowance previously elected,
2 the allowance that the member would have received on the effective date of
3 retirement under Option 1 as provided in subsection (1) of this section and
4 adjusted by the actual amount of any cost-of-living or other post-retirement
5 adjustments made to the original allowance since the effective date of re-
6 tirement. Notice of election under this subsection must be in a form approved
7 by the board. If an election is made under this subsection, the Option 1
8 payment amount is applicable to the first full month after the death of the
9 beneficiary, or the first full month after entry of the judgment of divorce,
10 and payable the first day of the month thereafter. If the increased amount
11 is not paid in any month in which the increased amount is due, the board
12 shall make a lump sum payment to the retired member that is equal to the
13 difference between the amount paid to the member for that month and the
14 amount that should have been paid under the provisions of this subsection.

15 “(7) Notwithstanding any other provision of this section, any member of
16 the system who retired before October 3, 1989, and elected to receive a ser-
17 vice retirement allowance under either Option 2 or 3 as provided in sub-
18 section (1) of this section shall be entitled to receive a service retirement
19 allowance equal to that which the member would have received on the ef-
20 fective date of retirement under Option 1 as provided in subsection (1) of this
21 section and adjusted by the actual amount of any cost-of-living or other
22 post-retirement adjustments made to the original allowance since the effec-
23 tive date of retirement if:

24 “(a) The member has attained 80 years of age;

25 “(b) The person designated by the member as the member’s beneficiary
26 has predeceased the member; and

27 “(c) The member gives written notice to the board of the death of the
28 member’s beneficiary.

29 “(8) Notwithstanding any other provision of this section, any member of
30 the system who retired before October 3, 1989, who elected to receive a re-

1 fund of accumulated employee contributions and a life pension or pensions
2 under subsection (2) of this section, and who elected to convert the life
3 pension or pensions provided for in subsection (2) of this section into a ser-
4 vice retirement annuity under Option 2 or 3 under subsection (1) of this
5 section, shall be entitled to receive a life pension or pensions equal to that
6 which the member would have received on the effective date of retirement
7 under subsection (2) of this section and adjusted by the actual amount of any
8 cost-of-living or other post-retirement adjustments made to the original life
9 pension or pensions since the effective date of retirement if:

10 “(a) The member has attained 80 years of age;

11 “(b) The person designated by the member as the member’s beneficiary
12 has predeceased the member; and

13 “(c) The member gives written notice to the board of the death of the
14 member’s beneficiary.

15 “(9) The service retirement allowance provided in subsection (7) or (8) of
16 this section shall be applicable to the first full month after the death of the
17 member’s beneficiary, or the first full month after the member attains 80
18 years of age, whichever is later.

19 “(10) The board may deny an election to convert a service retirement al-
20 lowance under this section, a change of beneficiary under this section or a
21 change in benefit options under this section if that denial is required to
22 maintain the status of the system and the Public Employees Retirement Fund
23 as a qualified governmental retirement plan and trust under the Internal
24 Revenue Code and under regulations adopted pursuant to the Internal Reve-
25 nue Code.

26 “**SECTION 15.** ORS 238.320 is amended to read:

27 “238.320. (1) Whenever an employee who is a member of the **Public Em-**
28 **ployees Retirement** System is found, after being examined by one or more
29 physicians selected by the **Public Employees Retirement** Board, to be
30 mentally or physically incapacitated for an extended duration, as determined

1 by medical examination, and thereby unable to perform any work for which
2 qualified, by injury or disease sustained while in actual performance of duty
3 and not intentionally self-inflicted, the member shall receive a disability re-
4 tirement allowance consisting of:

5 “(a) A disability retirement refund annuity based on the contributions
6 **under this chapter**, if any, credited to the member account of the member.

7 “(b) A current service pension provided by the contributions of employers
8 **and, for benefits that accrue on or after July 1, 2020, amounts in the**
9 **employee pension stability account established for the member under**
10 **section 3 of this 2019 Act**, equal to:

11 “(A) For a police officer or firefighter, the pension to which the member
12 would have been entitled if the member had worked continuously until at-
13 taining the age of 55, or if the member has attained the age of 55, the pension
14 which the member would receive were the member to retire for service, as
15 provided in this chapter.

16 “(B) For a member other than a police officer or firefighter, the pension
17 to which the member would have been entitled if the member had worked
18 continuously until attaining the age of 58, or if the member has attained the
19 age of 58, the pension which the member would receive were the member to
20 retire for service, as provided in this chapter.

21 “(c) The same prior service pension the member would have received had
22 the member worked until normal retirement age.

23 “(2) As used in subsection (1) of this section, ‘injury’ means bodily injury
24 causing the disability directly and independently of all other causes and ef-
25 fected solely through accidental means.

26 “(3) Whenever an employee who is a member of the system and who has
27 been an employee for 10 years or more of an employer participating in the
28 system is found, after being examined by one or more physicians selected by
29 the board, to be mentally or physically incapacitated for an extended dura-
30 tion, as determined by medical examination, and thereby unable to perform

1 any work for which qualified, from cause other than injury or disease sus-
2 tained while in actual performance of duty or intentionally self-inflicted, the
3 member shall receive a disability retirement allowance as provided in sub-
4 section (1) of this section.

5 “(4) Payments under a disability retirement allowance provided for in
6 subsection (1) or (3) of this section for the first 90-day period of incapacity
7 shall be withheld until such 90-day period has elapsed.

8 “(5) An inactive member is not eligible for disability benefits referred to
9 in subsection (1) or (3) of this section unless the member applies for such
10 disability benefits within five calendar years after the date of separation
11 from service with a participating public employer if the disability is contin-
12 uous from such separation date or within six months after the date of such
13 separation from service if disability occurs after such separation date.

14 “(6) In computing years of employment for the purpose of subsection (3)
15 of this section, the following schedule shall be used: For employment before
16 the employee established membership in the Public Employees Retirement
17 System, a member shall be considered to have been employed for one year
18 for each year of prior service credit allowed, and for any minor fraction of
19 a year of continuous service as certified by the employer for which no prior
20 service credit was granted. After having established membership in the
21 Public Employees Retirement System a member shall be considered to have
22 been employed one year for each 12-month period or major fraction thereof
23 during which time the member received compensation for employment which
24 entitled the member to membership in the system, as evidenced by payroll
25 records. For the purpose of determining a member’s eligibility for disability
26 benefits, no leave of absence after a member ceases to work for any partic-
27 ipating employer shall be considered other than accumulated sick leave not
28 in excess of 90 days. The effective date of the disability shall not in any
29 event be determined by the board as prior to the last day for which the dis-
30 abled member performed services for a participating employer. No benefits

1 may be paid for any month in which the member received salary or sick leave
2 benefits from the participating employer.

3 “(7) For the purposes of subsections (1) and (3) of this section, a member
4 of the system shall be considered to be mentally or physically incapacitated
5 for an extended duration if the mental or physical incapacity can be expected
6 to result in death or has lasted or can be expected to last for a continuous
7 period of not less than 90 days.

8 **“SECTION 16.** ORS 238.325 is amended to read:

9 “238.325. (1) At any time after establishing membership, but before the
10 expiration of 90 days after the Public Employees Retirement Board makes its
11 finding that the employee is disabled, an employee who is a member of the
12 Public Employees Retirement System may elect to convert the disability re-
13 tirement allowance otherwise payable on the member account of the member
14 into a disability retirement annuity of equivalent actuarial value, by select-
15 ing one of the optional forms named below. The election of Option 2, 2A, 3
16 or 3A shall be effective immediately upon the effective date of the member’s
17 disability, and in the event of death within the first 90-day period of inca-
18 pacity, payment to the beneficiary of the member shall be made in accord-
19 ance with the option selected.

20 “Option 1. (a) A life annuity (nonrefund) payable during the member’s life
21 only, which shall be the actuarial equivalent of the accumulated contribu-
22 tions **under this chapter** and interest thereon credited to the member at the
23 time the member retires (if death occurs before the first payment is due, the
24 member account of the member shall be treated as though death had occurred
25 before retirement); (b) a life pension (nonrefund) provided by the contribu-
26 tions of employers **and, for benefits that accrue on or after July 1, 2020,**
27 **amounts in the employee pension stability account established for the**
28 **member under section 3 of this 2019 Act** as provided in ORS 238.320 (1)(b);
29 (c) an additional nonrefund pension for prior service credit, including mili-
30 tary service, credited to the member at the time the member first becomes

1 a member of the system, as elsewhere provided in this chapter, which pension
2 shall be provided by the contributions of the employer; or

3 “Option 2. A reduced disability retirement allowance payable during the
4 period of incapacity, with the provision that after death, if death shall occur
5 after the effective date of the disability and during the period of incapacity,
6 it shall continue for the life of the beneficiary whom the member has desig-
7 nated in writing duly acknowledged and filed with the board at the time of
8 election, should the beneficiary survive the member; or

9 “Option 2A. A reduced disability retirement allowance payable during the
10 period of incapacity which, unless modified under subsection (3) of this sec-
11 tion, continues after death, if death shall occur after the effective date of the
12 disability and during the period of incapacity, for the life of the beneficiary
13 whom the member nominates by written designation duly acknowledged and
14 filed with the board at the time of election, should the beneficiary survive
15 the member; or

16 “Option 3. A reduced disability retirement allowance payable during the
17 period of incapacity, with the provision that after death, if death shall occur
18 after the effective date of the disability and during the period of incapacity,
19 such allowance shall continue at one-half the rate paid to the member and
20 be paid for the life of the beneficiary whom the member has designated in
21 writing duly acknowledged and filed with the board at the time of election,
22 should the beneficiary survive the member; or

23 “Option 3A. A reduced disability retirement allowance payable during the
24 period of incapacity which, unless modified under subsection (3) of this sec-
25 tion, continues after death, if death shall occur after the effective date of the
26 disability and during the period of incapacity, at one-half the rate paid to
27 the member and is paid for the life of the beneficiary whom the member
28 nominates by written designation duly acknowledged and filed with the
29 board at the time of election, should the beneficiary survive the member; or

30 “Option 4. A reduced disability retirement allowance payable during the

1 period of incapacity, with the provisions that if the member dies during the
2 period of incapacity and before a total of 180 monthly payments is made, the
3 remainder of the 180 monthly payments shall be paid monthly to the benefi-
4 ciary the member nominates by written designation duly acknowledged and
5 filed with the board at any time before the member's death; and that if the
6 member designates no beneficiary to receive the monthly payments or no
7 such beneficiary is able to receive the monthly payments, an amount equal
8 to the actuarial value, on the date of the member's death, of the total of the
9 monthly payments not made to the member shall be paid according to ORS
10 238.390 for disposal of an amount credited to the member account of a mem-
11 ber at the time of death; and that if the beneficiary receiving monthly pay-
12 ments dies before the total number of monthly payments to which the
13 beneficiary is entitled is made, an amount equal to the actuarial value, on
14 the date of the beneficiary's death, of the total of the monthly payments not
15 made to the member and beneficiary shall be paid according to ORS 238.390
16 for disposal of an amount credited to the member account of a member at the
17 time of death and as if the beneficiary had been a member.

18 “(2) The beneficiary designated by a member to receive any benefit under
19 this section shall be the same as designated under ORS 238.390 (1). The des-
20 ignation of a beneficiary or the election of an option may be changed by a
21 member within 60 days after the date of the first benefit payment, except that
22 the designation of a beneficiary under Option 4 may be changed by the
23 member at any time before the member's death.

24 “(3) If a retired member has elected to receive a disability retirement al-
25 lowance under Option 2A or Option 3A as provided in subsection (1) of this
26 section, and if the beneficiary under that option dies after the expiration of
27 the time within which the member could change the election of an option
28 or if the beneficiary is the spouse of the member and the marriage relation-
29 ship is terminated as provided by law after the expiration of the time within
30 which the member could change the election of an option, the member may

1 elect to receive, in lieu of the optional form of allowance previously elected,
2 the allowance that the member would have received on the effective date of
3 retirement under Option 1 as provided in subsection (1) of this section and
4 adjusted by the actual amount of any cost-of-living or other post-retirement
5 adjustments made to the original allowance since the effective date of re-
6 tirement. Notice of election under this subsection must be in a form approved
7 by the board. If an election is made under this subsection, the Option 1
8 payment amount is applicable to the first full month after the death of the
9 beneficiary, or the first full month after entry of the judgment of divorce,
10 and payable the first day of the month thereafter. If the increased amount
11 is not paid in any month in which the increased amount is due, the board
12 shall make a lump sum payment to the retired member that is equal to the
13 difference between the amount paid to the member for that month and the
14 amount that should have been paid under the provisions of this subsection.

15 “(4) The cost to the system of a disability retirement allowance in any
16 optional form may not exceed the cost to the system of a nonrefund disability
17 retirement allowance payable to, and on account of, the member making such
18 election.

19 “(5) The obligation for payment of any benefit in force prior to April 8,
20 1953, may not be altered by subsections (1) to (4) of this section. However,
21 the beneficiary of a retired member who prior to July 1, 1953, elected an
22 option but died prior to the effective date of such election, shall have a right
23 to repay, before December 31, 1953, the amount of the lump sum refund made
24 in lieu of the monthly life benefit elected and receive payment of such ben-
25 efit, computed as of the date of the member’s death and payable from such
26 date.

27 “(6) If a member who would have qualified for disability benefits makes
28 preliminary application for such benefits but dies prior to being found by the
29 board to be disabled or prior to electing a plan of benefit payments, and the
30 records of the board indicate that the member had designated the surviving

1 spouse as beneficiary under ORS 238.390 (1), such surviving spouse may, not
2 more than 90 days after the board makes its finding that the member would
3 have qualified for disability benefits if living:

4 “(a) Elect to receive the amount referred to in ORS 238.395 if such benefit
5 would have been available if the member had not applied for disability ben-
6 efits;

7 “(b) If not eligible for benefits under ORS 238.395, elect to receive benefits
8 under ORS 238.390 (1); or

9 “(c) Elect Option 2 or 3 under subsection (1) of this section and designate
10 the surviving spouse as beneficiary thereunder with the same force and effect
11 as if the election and designation had been properly made by the deceased
12 member.

13 “(7) The board may deny an election to convert a disability retirement
14 allowance under this section, a change of beneficiary under this section or
15 a change in benefit options under this section if that denial is required to
16 maintain the status of the system and the Public Employees Retirement Fund
17 as a qualified governmental retirement plan and trust under the Internal
18 Revenue Code and under regulations adopted pursuant to the Internal Reve-
19 nue Code.

20 “**SECTION 17.** ORS 238.395 is amended to read:

21 “238.395. (1) In addition to any other benefits under this chapter, a death
22 benefit, provided by contributions of the public employer under ORS 238.225
23 **and, for benefits that accrue on or after July 1, 2020, amounts in the**
24 **employee pension stability account established for the member under**
25 **section 3 of this 2019 Act**, shall be paid to the beneficiaries designated
26 under ORS 238.390 (1) of a person who is an active or inactive member of the
27 system and who dies as a result of injuries received while employed in the
28 service of the public employer or within 120 days after termination from
29 service with a participating public employer. A member who is on a leave
30 of absence without pay from employment with a participating public em-

1 ployer has not terminated service with that participating public employer for
2 the purposes of this section.

3 “(2) The death benefit referred to in subsection (1) of this section shall
4 be an amount equal to the amount in the member account of the deceased
5 member at the time of death.

6 “(3) In the event that a beneficiary has not been named as provided in
7 subsection (1) of this section and ORS 238.390 (1), the death benefit referred
8 to in subsection (1) of this section shall be paid in the manner provided for
9 payment of money credited to the member account of the member in ORS
10 238.390 (2).

11 “(4) The beneficiary designated under subsection (1) of this section and
12 ORS 238.390 (1) may elect to receive the amount payable in actuarially de-
13 termined monthly payments for the life of such beneficiary as long as such
14 monthly payments, plus the monthly amount if elected under ORS 238.390 (3),
15 are at least \$200.

16 “(5) Interest upon the death benefit provided by this section shall accrue
17 until the date that the benefit is distributed. The board shall establish pro-
18 cedures for computing interest to be credited on the benefit for the period
19 between the date of death and date of distribution.

20 “(6) Payment by the Public Employees Retirement Board of additional
21 death benefits in the manner provided by this section completely discharges
22 the board and system on account of the death, and shall hold the board and
23 system harmless from any claim for wrongful payment.

24 **“SECTION 18.** ORS 243.800 is amended to read:

25 “243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A
26 or ORS 243.910 to 243.945, the governing board of a public university listed
27 in ORS 352.002 shall establish and administer an Optional Retirement Plan
28 for administrative and academic employees of the public university. The
29 Optional Retirement Plan must be a qualified plan under the Internal Reve-
30 nue Code, capable of accepting funds transferred under subsection (7) of this

1 section without the transfer being treated as a taxable event under the
2 Internal Revenue Code, and willing to accept those funds. Retirement and
3 death benefits shall be provided under the plan by the purchase of annuity
4 contracts, fixed or variable or a combination thereof, or by contracts for in-
5 vestments in mutual funds.

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

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

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

13 “(3) An administrative or academic employee who is eligible to remain
14 or become a member of the Public Employees Retirement System, including
15 an administrative or academic employee who previously participated in the
16 Optional Retirement Plan because of employment in a position classified as
17 a post-doctoral scholar position under ORS 350.370, may make an irrevocable
18 election to participate in the Optional Retirement Plan within six months
19 after being employed. An election under this subsection is effective on the
20 first day of the month following the completion of the requirements of sub-
21 section (2) of this section.

22 “(4) An administrative or academic employee who is eligible to remain
23 or become a member of the Public Employees Retirement System and who
24 does not elect to participate in the Optional Retirement Plan:

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

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

29 “(5) Except as provided in subsection (6) of this section, employees who
30 elect to participate in the Optional Retirement Plan are ineligible for active

1 membership in the Public Employees Retirement System or for any assistance
2 by the governing board under ORS 243.920 as long as those employees are
3 employed in the public university and the plan is in effect.

4 “(6)(a) An administrative or academic employee who elects to participate
5 in the Optional Retirement Plan, who has creditable service under ORS
6 chapter 238 as defined by ORS 238.005 and who is not vested shall be con-
7 sidered by the Public Employees Retirement Board to be a terminated mem-
8 ber under the provisions of ORS 238.095 as of the effective date of the
9 election, and the [amount] **amounts** credited to the member [account] **ac-**
10 **counts** of the member **established under ORS 238.250, 238.260 and**
11 **238A.350 and section 3 of this 2019 Act** shall be transferred directly to the
12 Optional Retirement Plan by the Public Employees Retirement Board in the
13 manner provided by subsection (7) of this section.

14 “(b) An administrative or academic employee who elects to participate in
15 the Optional Retirement Plan, who has creditable service under ORS chapter
16 238 as defined by ORS 238.005 and who is vested shall be considered to be
17 an inactive member by the Public Employees Retirement Board and shall
18 retain all the rights, privileges and options under ORS chapter 238 unless the
19 employee makes a written request to the Public Employees Retirement Board
20 for a transfer of the amounts credited to the member [account] **accounts** of
21 the member **established under ORS 238.250, 238.260 and 238A.350 and**
22 **section 3 of this 2019 Act** to the Optional Retirement Plan. A request for
23 a transfer must be made at the time the member elects to participate in the
24 Optional Retirement Plan. Upon receiving the request, the Public Employees
25 Retirement Board shall transfer all amounts credited to the member
26 [account] **accounts** of the member **established under ORS 238.250, 238.260**
27 **and 238A.350 and section 3 of this 2019 Act** directly to the Optional Re-
28 tirement Plan **in the manner provided by subsection (7) of this section,**
29 and shall terminate all rights, privileges and options of the employee under
30 [ORS chapter 238] **the Public Employees Retirement System.**

1 “(c) [*An administrative or academic employee who elects to participate in*
2 *the Optional Retirement Plan, and who is not a vested member of the pension*
3 *program of the Oregon Public Service Retirement Plan as described in ORS*
4 *238A.115*] **An administrative or academic employee who elects to par-**
5 **ticipate in the Optional Retirement Plan and who is a member of the**
6 **pension program of the Oregon Public Service Retirement Plan as de-**
7 **scribed in ORS 238A.100 on the date that the election becomes effec-**
8 **tive, but who has not vested in the program under ORS 238A.115** on the
9 date that the election becomes effective, shall be considered to be a termi-
10 nated member of the [*pension program*] **Public Employees Retirement**
11 **System** by the Public Employees Retirement Board as of the effective date
12 of the election. **The board shall transfer the amounts credited to the**
13 **member accounts of the member established under ORS 238A.350 and**
14 **section 3 of this 2019 Act directly to the Optional Retirement Plan in**
15 **the manner provided by subsection (7) of this section.**

16 “(d) An administrative or academic employee who elects to participate in
17 the Optional Retirement Plan, and who is a vested member of the pension
18 program of the Oregon Public Service Retirement Plan as described in ORS
19 238A.115 on the date that the election becomes effective, shall be considered
20 an inactive member of the pension program by the Public Employees Re-
21 tirement Board as of the effective date of the election. [*An employee*] **A**
22 **member** who is subject to the provisions of this paragraph retains all the
23 rights, privileges and options of an inactive member of the pension
24 program[. *If the actuarial equivalent of the employee’s benefit under the pen-*
25 *sion program at the time that the election becomes effective is \$5,000 or less,*
26 *the employee may make*], **unless the member makes** a written request to
27 the Public Employees Retirement Board for a transfer of the [*employee’s in-*
28 *terest under the pension program*] **amounts credited to the member ac-**
29 **counts of the member established under ORS 238A.350 and section 3**
30 **of this 2019 Act** to the Optional Retirement Plan. The request must be made

1 at the time the member elects to participate in the Optional Retirement Plan.
2 Upon receiving the request, the Public Employees Retirement Board shall
3 transfer the [*amount determined to be the actuarial equivalent of the*
4 *employee's benefit under the pension program*] **amounts credited to the**
5 **member accounts of the member established under ORS 238A.350 and**
6 **section 3 of this 2019 Act** directly to the Optional Retirement Plan **in the**
7 **manner provided by subsection (7) of this section**, and shall terminate
8 the membership of the employee in the [*pension program*] **Public Employees**
9 **Retirement System.**

10 “[(e) *An administrative or academic employee who elects to participate in*
11 *the Optional Retirement Plan, and who is a vested member of the individual*
12 *account program of the Oregon Public Service Retirement Plan as described*
13 *in ORS 238A.320 on the date that the election becomes effective, shall be con-*
14 *sidered an inactive member of the individual account program by the Public*
15 *Employees Retirement Board as of the effective date of the election. An em-*
16 *ployee who is subject to the provisions of this paragraph retains all the rights,*
17 *privileges and options of an inactive member of the individual account pro-*
18 *gram. An administrative or academic employee who elects to participate in the*
19 *Optional Retirement Plan, and who is a member of the individual account*
20 *program of the Oregon Public Service Retirement Plan, may make a written*
21 *request to the Public Employees Retirement Board that all amounts in the*
22 *member's employee account, rollover account and employer account, to the ex-*
23 *tent the member is vested in those accounts under ORS 238A.320, be trans-*
24 *ferred to the Optional Retirement Plan. The request must be made at the time*
25 *the member elects to participate in the Optional Retirement Plan. Upon re-*
26 *ceiving the request, the Public Employees Retirement Board shall transfer the*
27 *amounts directly to the Optional Retirement Plan, and shall terminate the*
28 *membership of the employee in the individual account program upon making*
29 *the transfer.*]

30 “[(f)] **(e)** Notwithstanding paragraphs [(b), (d) and (e)] **(b) and (d)** of this

1 subsection, the Public Employees Retirement Board may not treat any em-
2 ployee as an inactive member under the provisions of this subsection for the
3 purpose of receiving any benefit under ORS chapter 238 or 238A that requires
4 that the employee be separated from all service with participating public
5 employers and with employers who are treated as part of a participating
6 public employer's controlled group under the federal laws and rules govern-
7 ing the status of the Public Employees Retirement System and the Public
8 Employees Retirement Fund as a qualified governmental retirement plan and
9 trust.

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

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

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

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

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

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

5 “(11)(a) Unless otherwise prohibited by law, a person employed in a posi-
6 tion classified as a post-doctoral scholar position under ORS 350.370 is an
7 academic employee under subsection (1) of this section and becomes a par-
8 ticipant in the Optional Retirement Plan when the person participates in the
9 public university’s Tax-Deferred Investment 403(b) Plan under ORS 243.820.

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

12 “(A) Enrollment in the public university’s Tax-Deferred Investment 403(b)
13 Plan under ORS 243.820; or

14 “(B) Completion of:

15 “(i) Six hundred hours of employment, or the equivalent as determined
16 by the governing board; and

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

19 “(c) For a post-doctoral scholar participating in the Optional Retirement
20 Plan, the governing board shall contribute monthly to the Optional Retire-
21 ment Plan a percentage of the post-doctoral scholar’s salary equal to the
22 percentage of salary contributed by the post-doctoral scholar to the public
23 university’s Tax-Deferred Investment 403(b) Plan under ORS 243.820, up to
24 four percent of the post-doctoral scholar’s salary in each pay period.

25 “(d) A post-doctoral scholar is an academic employee who elects to par-
26 ticipate in the Optional Retirement Plan for purposes of subsection (6) of this
27 section.

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

30 “(12) Both employee and employer contributions to an Optional Retire-

1 ment Plan shall be remitted directly to the companies that have issued an-
2 nuity contracts to the participating employees or directly to the mutual
3 funds.

4 “(13) Benefits under the Optional Retirement Plan are payable to em-
5 ployees who elect to participate in the plan and their beneficiaries by the
6 selected annuity provider or mutual fund in accordance with the terms of the
7 annuity contracts or the terms of the contract with the mutual fund. Em-
8 ployees electing to participate in the Optional Retirement Plan agree that
9 benefits payable under the plan are not obligations of the State of Oregon
10 or of the Public Employees Retirement System.

11 **“SECTION 19.** ORS 341.551 is amended to read:

12 “341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A,
13 the Office of Community Colleges and Workforce Development may establish
14 and administer an optional retirement plan for administrative employees of
15 community college districts who are eligible for membership in the Public
16 Employees Retirement System. Any community college district may partic-
17 ipate in the plan by giving written notice to the office.

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

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

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

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

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

15 “(5)(a) An administrative employee who elects to participate in the op-
16 tional retirement plan, who has creditable service under ORS chapter 238 as
17 defined by ORS 238.005 and who is not vested shall be considered by the
18 Public Employees Retirement Board to be a terminated member under the
19 provisions of ORS 238.095 as of the effective date of the election, and the
20 [amount] **amounts** credited to the member [account] **accounts** of the member
21 **established under ORS 238.250, 238.260 and 238A.350 and section 3 of this**
22 **2019 Act** shall be transferred directly to the optional retirement plan by the
23 Public Employees Retirement Board in the manner provided by subsection
24 (6) of this section.

25 “(b) An administrative employee who elects to participate in the optional
26 retirement plan, who has creditable service under ORS chapter 238 as defined
27 by ORS 238.005 and who is vested shall be considered to be an inactive
28 member by the Public Employees Retirement Board and shall retain all the
29 rights, privileges and options under ORS chapter 238 unless the employee
30 makes a written request to the Public Employees Retirement Board for a

1 transfer of the amounts credited to the member [*account*] **accounts** of the
2 member **established under ORS 238.250, 238.260 and 238A.350 and section**
3 **3 of this 2019 Act** to the optional retirement plan. A request for a transfer
4 must be made at the time the member elects to participate in the optional
5 retirement plan. Upon receiving the request, the Public Employees Retire-
6 ment Board shall transfer all amounts credited to the member [*account*] **ac-**
7 **counts** of the member **established under ORS 238.250, 238.260 and**
8 **238A.350 and section 3 of this 2019 Act** directly to the optional retirement
9 plan **in the manner provided by subsection (6) of this section** and shall
10 terminate all rights, privileges and options of the employee under [*ORS*
11 *chapter 238*] **the Public Employees Retirement System.**

12 “(c) [*An administrative employee who elects to participate in the optional*
13 *retirement plan and who is not a vested member of the pension program of the*
14 *Oregon Public Service Retirement Plan as described in ORS 238A.115*] **An**
15 **administrative employee who elects to participate in the optional re-**
16 **tirement plan and who is a member of the pension program of the**
17 **Oregon Public Service Retirement Plan as described in ORS 238A.100**
18 **on the date that the election becomes effective, but who has not vested**
19 **in the program under ORS 238A.115** on the date that the election becomes
20 effective, shall be considered to be a terminated member of the [*pension*
21 *program*] **Public Employees Retirement System** by the Public Employees
22 Retirement Board as of the effective date of the election. **The board shall**
23 **transfer the amounts credited to the member accounts of the member**
24 **established under ORS 238A.350 and section 3 of this 2019 Act directly**
25 **to the optional retirement plan in the manner provided by subsection**
26 **(6) of this section.**

27 “(d) An administrative employee who elects to participate in the optional
28 retirement plan and who is a vested member of the pension program of the
29 Oregon Public Service Retirement Plan as described in ORS 238A.115 on the
30 date that the election becomes effective shall be considered an inactive

1 member of the pension program by the Public Employees Retirement Board
2 as of the effective date of the election. *[An employee]* **A member** who is
3 subject to the provisions of this paragraph retains all the rights, privileges
4 and options of an inactive member of the pension program. *If the actuarial*
5 *equivalent of the employee's benefit under the pension program at the time that*
6 *the election becomes effective is \$5,000 or less, the employee may make*, **unless**
7 **the member makes** a written request to the Public Employees Retirement
8 Board for a transfer of the *[employee's interest under the pension program]*
9 **amounts credited to the member accounts of the member established**
10 **under ORS 238A.350 and section 3 of this 2019 Act** to the optional re-
11 tirement plan. The request must be made at the time the member elects to
12 participate in the optional retirement plan. Upon receiving the request, the
13 Public Employees Retirement Board shall transfer the *[amount determined to*
14 *be the actuarial equivalent of the employee's benefit under the pension*
15 *program]* **amounts credited to the member accounts of the member es-**
16 **tablished under ORS 238A.350 and section 3 of this 2019 Act** directly to
17 the optional retirement plan **in the manner provided by subsection (6)**
18 **of this section** and shall terminate the membership of the employee in the
19 *[pension program]* **Public Employees Retirement System.**

20 “*[(e) An administrative employee who elects to participate in the optional*
21 *retirement plan and who is a vested member of the individual account program*
22 *of the Oregon Public Service Retirement Plan as described in ORS 238A.320*
23 *on the date that the election becomes effective shall be considered an inactive*
24 *member of the individual account program by the Public Employees Retirement*
25 *Board as of the effective date of the election. An employee who is subject to*
26 *the provisions of this paragraph retains all the rights, privileges and options*
27 *of an inactive member of the individual account program. An administrative*
28 *employee who elects to participate in the optional retirement plan and who is*
29 *a member of the individual account program of the Oregon Public Service*
30 *Retirement Plan may make a written request to the Public Employees Retire-*

1 *ment Board that all amounts in the member's employee account, rollover ac-*
2 *count and employer account, to the extent the member is vested in those*
3 *accounts under ORS 238A.320, be transferred to the optional retirement plan.*
4 *The request must be made at the time the member elects to participate in the*
5 *optional retirement plan. Upon receiving the request, the Public Employees*
6 *Retirement Board shall transfer the amounts directly to the optional retirement*
7 *plan and shall terminate the membership of the employee in the individual*
8 *account program.]*

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

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

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

28 “(8) A participating community college district shall contribute monthly
29 to the optional retirement plan the percentage of salary for each employee
30 participating in the plan that is equal to the percentage of salary that is

1 required to be made as the employer contribution under ORS 238A.220, less
2 any contributions made by reason of unfunded liabilities. The district may
3 make contributions under this subsection only during periods of time in
4 which the employee would be eligible for membership in the Public Employ-
5 ees Retirement System if the employee had not elected to participate in the
6 optional retirement plan.

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

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

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

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

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

21

22

“SIDE ACCOUNTS

23

24 “**SECTION 20.** Section 3b, chapter 105, Oregon Laws 2018, is amended to
25 read:

26 “**Sec. 3b. (1)** If a participating public employer makes a lump sum pay-
27 ment from moneys not borrowed by the employer to an account established
28 under ORS 238.229 in an amount equal to or greater than \$10 million, the
29 Public Employees Retirement Board shall allow the participating public em-
30 ployer to choose an amortization period of six years, 10 years, 16 years or

1 20 years for the use of the lump sum payment to offset contributions to the
2 system that the public employer would otherwise be required to make for the
3 liabilities against which the lump sum payment is applied.

4 **“(2)(a) The board shall allow a participating public employer making**
5 **a lump sum payment under this section to choose the year in which**
6 **to begin to use the lump sum payment to offset contributions to the**
7 **system that the public employer would otherwise be required to make**
8 **for the liabilities against which the lump sum payment is applied. The**
9 **board shall begin using the lump sum payment on July 1 of the year**
10 **chosen under this subsection, with the beginning contribution offset**
11 **rate based on the actuarial report under ORS 238.605 most recently**
12 **published as of the date chosen by the public employer.**

13 **“(b) Notwithstanding paragraph (a) of this subsection, the board**
14 **may, after consultation with the participating public employer, begin**
15 **using a lump sum payment to offset contributions in an earlier year**
16 **than the year chosen by the public employer under this section to**
17 **ensure that the period for using the lump sum payment, including**
18 **earnings accrued, will end no later than 20 years after the date of the**
19 **actuarial report under ORS 238.605 for the year the lump sum payment**
20 **is made.**

21 **“(c) A lump sum payment for which a participating public employer**
22 **chooses when to begin to use the lump sum payment to offset contri-**
23 **butions under this subsection is not a qualifying lump sum payment**
24 **for purposes of section 2, chapter 105, Oregon Laws 2018.**

25 **“(d) In lieu of the expenses authorized under ORS 238.229 (3), the**
26 **board may charge a participating public employer expenses for ad-**
27 **ministration of an account as provided by this subsection in an**
28 **amount established by the board by rule.**

29 **“SECTION 21. Section 3b, chapter 105, Oregon Laws 2018, as amended**
30 **by section 20 of this 2019 Act, is amended to read:**

1 **“Sec. 3b.** [(1)] If a participating public employer makes a lump sum pay-
2 ment from moneys not borrowed by the employer to an account established
3 under ORS 238.229 in an amount equal to or greater than \$10 million, the
4 Public Employees Retirement Board shall allow the participating public em-
5 ployer to choose an amortization period of six years, 10 years, 16 years or
6 20 years for the use of the lump sum payment to offset contributions to the
7 system that the public employer would otherwise be required to make for the
8 liabilities against which the lump sum payment is applied.

9 “[(2)(a) *The board shall allow a participating public employer making a*
10 *lump sum payment under this section to choose the year in which to begin to*
11 *use the lump sum payment to offset contributions to the system that the public*
12 *employer would otherwise be required to make for the liabilities against which*
13 *the lump sum payment is applied. The board shall begin using the lump sum*
14 *payment on July 1 of the year chosen under this subsection, with the beginning*
15 *contribution offset rate based on the actuarial report under ORS 238.605 most*
16 *recently published as of the date chosen by the public employer.*]

17 “[(b) *Notwithstanding paragraph (a) of this subsection, the board may, after*
18 *consultation with the participating public employer, begin using a lump sum*
19 *payment to offset contributions in an earlier year than the year chosen by the*
20 *public employer under this section to ensure that the period for using the lump*
21 *sum payment, including earnings accrued, will end no later than 20 years after*
22 *the date of the actuarial report under ORS 238.605 for the year the lump sum*
23 *payment is made.*]

24 “[(c) *A lump sum payment for which a participating public employer*
25 *chooses when to begin to use the lump sum payment to offset contributions*
26 *under this subsection is not a qualifying lump sum payment for purposes of*
27 *section 2, chapter 105, Oregon Laws 2018.*]

28 “[(d) *In lieu of the expenses authorized under ORS 238.229 (3), the board*
29 *may charge a participating public employer expenses for administration of an*
30 *account as provided by this subsection in an amount established by the board*

1 *by rule.]*

2

3

“PENSION OBLIGATION BONDS

4

5 **“SECTION 22. Section 23 of this 2019 Act is added to and made a**
6 **part of ORS 238.692 to 238.698.**

7 **“SECTION 23. (1) Before a public body, or an intergovernmental**
8 **entity formed pursuant to ORS 238.695, may authorize the issuance of**
9 **bonds under ORS 238.694, the public body or intergovernmental entity**
10 **must first:**

11 **“(a) Obtain a statistically based assessment from an independent**
12 **economic or financial consulting firm regarding the likelihood that**
13 **investment returns on bond proceeds will exceed the interest cost of**
14 **the bonds under various market conditions; and**

15 **“(b) Make a report available to the general public that:**

16 **“(A) Describes the results of the assessment; and**

17 **“(B) Discloses whether the public body or intergovernmental entity**
18 **has retained the services of an independent SEC-registered advisor.**

19 **“(2) The public body or intergovernmental entity shall transmit the**
20 **assessment to the State Treasurer at least 30 days before issuing the**
21 **bonds.**

22 **“(3) The State Treasurer shall provide to the State Debt Policy Ad-**
23 **visory Commission an annual report on bonds issued under ORS**
24 **238.694. The report must describe each bond issuance under ORS**
25 **238.694 that took place on or after the effective date of this 2019 Act**
26 **and that remains outstanding, including, for each issuance:**

27 **“(a) The actual interest rate owed over the term of the bonds;**

28 **“(b) The projected rate of return on the bond proceeds, as deter-**
29 **mined by the assessment required under subsection (1) of this section;**
30 **and**

1 “(c) The actual rate of return on the bond proceeds in the previous
2 fiscal year and the cumulative rate of return on the bond proceeds.

3 “(4) As used in this section, ‘independent SEC-registered advisor’
4 has the meaning given the term ‘independent registered municipal
5 advisor’ in 17 C.F.R. 240.15Ba1-1, as amended.

6 “**SECTION 24.** ORS 238.694 is amended to read:

7 “238.694. (1) The Legislative Assembly finds that authorizing issuance of
8 revenue bonds to finance pension liabilities may reduce the cost of public
9 pensions to taxpayers and that the reduction of those costs to taxpayers is
10 a matter of statewide concern.

11 “(2) Notwithstanding the limitation on indebtedness in ORS 287A.105 or
12 any other limitation on indebtedness or borrowing under state or local law,
13 for the purpose of obtaining funds to pay the pension liability of a public
14 body, the governing body of a public body may authorize and cause the is-
15 suance of revenue bonds under ORS chapter 287A, **subject to section 23 of**
16 **this 2019 Act.**

17 “(3) The governing body of a public body may pledge the full faith and
18 credit and taxing power of the public body to the payment of the principal
19 and interest on bonds issued under ORS 238.692 to 238.698, and any premium
20 on those bonds.

21 “(4) Unless the charter of a county provides a lower limit, a county may
22 issue revenue bonds to finance pension liabilities in an amount that does not
23 exceed five percent of the real market value of the taxable property within
24 the boundaries of the county.

25 “(5) Revenue bonds authorized under this section need not comply with
26 the procedure specified in ORS 287A.150.

27 “(6) A public body that issues revenue bonds under this section may also
28 issue revenue bonds for the purpose of refunding the bonds.

29 “(7) A public body may enter into indentures or other agreements with
30 trustees or escrow agents for the issuance, administration or payment of

1 bonds authorized under this section.

2 **“SECTION 25.** ORS 238.695 is amended to read:

3 “238.695. (1) Public bodies may enter into intergovernmental agreements
4 for the collective issuance, administration or payment of bonds authorized
5 under ORS 238.694. An agreement for collective issuance, administration or
6 payment of bonds under this subsection may provide for the contribution and
7 pooling of the assets of the public bodies as security for the bonds, and may
8 make provisions for such other matters as the public bodies determine con-
9 venient. Notwithstanding ORS 190.080, any intergovernmental entity created
10 by public bodies under this section shall have the power to issue bonds as
11 described in ORS 238.694, **subject to section 23 of this 2019 Act.** The bonds
12 may be issued and sold as parity bonds, issued and sold individually or issued
13 and sold in such combinations or forms as determined to be appropriate by
14 the public bodies.

15 “(2) Proceeds of bonds sold under an intergovernmental agreement entered
16 into under this section, and any other funds or assets of a public body, to-
17 gether with interest or earnings on the proceeds, funds and assets, may be
18 consolidated into one or more funds or accounts and may be pledged to the
19 holders of the bonds.

20 “(3) Public bodies may enter into indentures or other agreements with
21 trustees or escrow agents for the issuance, administration or payment of
22 bonds pursuant to an intergovernmental agreement entered into under this
23 section.

24 “(4) The State Treasurer may cooperate with, assist and provide recom-
25 mendations to public bodies, and any intergovernmental entity created by
26 public bodies under this section, relating to all matters involved in the is-
27 suance, administration and payment of bonds. Any expenses incurred by the
28 State Treasurer in providing assistance to public bodies under this section
29 may be paid as an administrative expense of the public body from the pro-
30 ceeds of the bonds issued with the assistance of the State Treasurer.

1 **“SECTION 26.** ORS 238.698 is amended to read:

2 “238.698. (1) A public body, or a group of public bodies that enter into an
3 intergovernmental agreement under ORS 238.695, that receives funds from
4 any state agency may enter into a funds diversion agreement with the state
5 agency for the purpose of paying the principal and interest on bonds issued
6 under ORS 238.692 to 238.698, and any premium on those bonds. A diversion
7 agreement entered into under this section must provide that:

8 “(a) Moneys payable to the public body or group of public bodies by the
9 state agency from appropriations from the General Fund or any other source
10 of moneys will be paid directly to a debt service trust fund established under
11 ORS 238.696 in amounts equal to the debt service owed by the public body
12 or group of public bodies;

13 “(b) The state agency must pay the amounts required under the funds di-
14 version agreement to the debt service trust fund established under ORS
15 238.696 pursuant to the schedule specified in the agreement before paying any
16 other amounts to the public body or group of public bodies;

17 “(c) The agreement is irrevocable; and

18 “(d) The agreement will remain in effect until all the bonds issued by the
19 public body or under the intergovernmental agreement are mature or re-
20 deemed.

21 **“(2) A school district, education service district or public charter**
22 **school may not enter into a funds diversion agreement to divert more**
23 **than the amount of funds received by the district or public charter**
24 **school from the State School Fund.**

25 “[(2)] (3) If for any reason a state agency that has entered into a funds
26 diversion agreement is not able to pay moneys to a debt service trust fund
27 as contemplated by the agreement, the state agency shall give notice to the
28 public body or group of public bodies within 30 days after the state agency
29 is aware that the moneys will not be paid.

30 “[(3)] (4) Nothing in this section, or in any funds diversion agreement

1 entered into by a state agency under this section, may in any manner obli-
2 gate the state or any state agency:

3 “(a) To pay any amount that a public body is not otherwise entitled to
4 receive under law; or

5 “(b) To pay any principal or interest on bonds issued under ORS 238.692
6 to 238.698.

7

8 **“AMORTIZATION OF UNFUNDED ACTUARIAL LIABILITY**

9

10 **“SECTION 27. In the year 2019, the Public Employees Retirement**
11 **Board shall determine the liabilities of the Public Employees Retire-**
12 **ment System attributable to the benefits to be provided to members**
13 **who established membership in the system before August 29, 2003, and**
14 **shall set the amount of contributions to be made by participating**
15 **public employers, and by other public employers that are required to**
16 **make contributions on behalf of members, to ensure that those liabil-**
17 **ities will be funded 22 years after the date on which the determination**
18 **is made.**

19 **“SECTION 28. Section 27 of this 2019 Act is repealed on January 2,**
20 **2020.**

21

22 **“EMPLOYEE CHOICE**

23

24 **“SECTION 29. Section 2, chapter 118, Oregon Laws 2018, is amended to**
25 **read:**

26 **“Sec. 2. (1) Except as provided in subsection [(6)] (5) of this section, the**
27 **Public Employees Retirement Board, in consultation with the office of the**
28 **State Treasurer, shall adopt rules providing that if the Oregon Investment**
29 **Council invests the assets of the individual account program in multiple risk**
30 **categories depending on the characteristics of an individual member, a**

1 member of the individual account program may elect to have the moneys in
2 the member's individual accounts established under ORS 238A.350 deposited
3 into an investment option approved by the council.

4 “(2) A member may make an election under this section once per calendar
5 year. The board shall establish by rule the date by which a member must
6 make an election under this section in order for the election to become ef-
7 fective on January 1 of the following calendar year.

8 “[3] *Subject to such direction and oversight as may be provided by the*
9 *Legislative Assembly, the board shall take all steps necessary to develop and*
10 *implement the information technology systems needed to implement and carry*
11 *out this section.*]

12 “[4] *The board may contract with a private provider for purposes of im-*
13 *plementing this section. The board is not subject to the provisions of ORS*
14 *chapter 279A or 279B in awarding a contract under the provisions of this*
15 *subsection. The board shall establish procedures for inviting proposals and*
16 *awarding contracts under this subsection.*]

17 “(3) **The board shall give each member of the individual account**
18 **program a disclosure statement in writing that contains information**
19 **regarding the investment options approved under this section, includ-**
20 **ing the risk and return characteristics of the investment options, that**
21 **members should consider when making an investment decision for**
22 **their funds.**

23 “[5] (4) The board may adopt rules as necessary to implement this sec-
24 tion, **which may include rules to create a separate trust or subtrust to**
25 **hold moneys that are subject to members' investment choice and di-**
26 **rection**, but the council and the office of the State Treasurer retain au-
27 thority over investment decisions required to implement this section.

28 “[6] (5) The board may not adopt rules under subsection (1) of this sec-
29 tion that violate state or federal laws or regulations.

30 “**SECTION 30.** Section 3, chapter 118, Oregon Laws 2018, is amended to

1 read:

2 “**Sec. 3.** The Public Employees Retirement Board shall allow members of
3 the individual account program to make an election under section 2, [*of this*
4 *2018 Act*] **chapter 118, Oregon Laws 2018**, that becomes effective on Janu-
5 ary 1, [*2019*] **2021**.

6 “**SECTION 31.** Section 32 of this 2019 Act is added to and made a
7 **part of ORS chapter 238A.**

8 “**SECTION 32.** The state, the State Treasurer, the Oregon Invest-
9 **ment Council and the Public Employees Retirement Board, and their**
10 **officers or employees, are not liable in a civil action or otherwise, for**
11 **any losses suffered by a member because of a member’s election of an**
12 **investment option under section 2, chapter 118, Oregon Laws 2018.**

13 “**SECTION 33.** Section 4, chapter 118, Oregon Laws 2018, is repealed.

14

15

“**WORK AFTER RETIREMENT**”

16

17 “**SECTION 34.** Section 35 of this 2019 Act is added to and made a
18 **part of ORS chapter 238.**

19 “**SECTION 35.** (1) Notwithstanding ORS 238.082 (2) and subject to
20 **the limitations in this section, during calendar year 2020, 2021, 2022,**
21 **2023 or 2024, a participating public employer may employ any retired**
22 **member without limitation on the hours worked by the retired mem-**
23 **ber if the administrative head of the public employer is satisfied that**
24 **the employment is in the public interest.**

25 “(2) A public employer that employs a retired member under ORS
26 238.082 or 238.088 (2) during calendar year 2020, 2021, 2022, 2023 or 2024
27 shall contribute to the Public Employees Retirement Board the per-
28 centage of the member’s wages that would have been contributed to
29 the board under ORS 238.225 if the member were an active member of
30 the Public Employees Retirement System. Employer contributions

1 made under this section are in addition to employer contributions
2 made under ORS 238.225. The board shall apply contributions made by
3 a public employer under this subsection against the liabilities of the
4 public employer. The board shall adopt rules governing payments made
5 under this subsection.

6 “(3) A retired member who is receiving old-age, survivors or disa-
7 bility insurance benefits under the federal Social Security Act may be
8 employed during calendar year 2020, 2021, 2022, 2023 or 2024 for no more
9 than the number of hours for which the salary equals the maximum
10 allowed for receipt of the full amount of those benefits to which the
11 person is entitled.

12 “(4) This section does not apply to any member who retires under
13 the provisions of ORS 238.280 (1), (2) or (3), unless the person’s date
14 of retirement is more than six months before the date the person is
15 employed under this section.

16 “(5) Employment under this section does not affect the status of a
17 person as a retired member of the system and a recipient of retirement
18 benefits under this chapter.

19 “SECTION 36. Section 37 of this 2019 Act is added to and made a
20 part of ORS chapter 238A.

21 “SECTION 37. (1) Notwithstanding ORS 238A.245 and subject to the
22 limitations in this section, during calendar year 2020, 2021, 2022, 2023
23 or 2024, a participating public employer may employ any retired
24 member without limitation on the hours worked by the retired mem-
25 ber if the administrative head of the public employer is satisfied that
26 the employment is in the public interest. The Public Employees Re-
27 tirement Board shall continue making pension payments to a retired
28 member of the pension program who is reemployed under this section.

29 “(2) A public employer that employs a retired member during cal-
30 endar year 2020, 2021, 2022, 2023 or 2024 shall contribute to the board

1 the percentage of the member’s wages that would have been contrib-
2 uted to the board under ORS 238A.220 if the member were an active
3 member of the Public Employees Retirement System. Employer con-
4 tributions made under this section are in addition to employer con-
5 tributions made under ORS 238A.220. The board shall apply
6 contributions made by a public employer under this subsection against
7 the liabilities of the public employer. The board shall adopt rules gov-
8 erning payments made under this subsection.

9 “(3) A retired member who is receiving old-age, survivors or disa-
10 bility insurance benefits under the federal Social Security Act may be
11 employed during calendar year 2020, 2021, 2022, 2023 or 2024 for no more
12 than the number of hours for which the salary equals the maximum
13 allowed for receipt of the full amount of those benefits to which the
14 person is entitled.

15 “(4) This section does not apply to any member who retires under
16 the provisions of ORS 238A.185, unless the person’s date of retirement
17 is more than six months before the date the person is employed under
18 this section.

19 “(5) Employment under this section does not affect the status of a
20 person as a retired member of the pension program and a recipient of
21 retirement benefits under this chapter.

22 “SECTION 38. Sections 35 and 37 of this 2019 Act are repealed on
23 January 2, 2025.

24
25 **“FINAL AVERAGE SALARY**

26
27 “SECTION 39. ORS 238.005, as amended by section 4, chapter 54, Oregon
28 Laws 2018, is amended to read:

29 “238.005. For purposes of this chapter:

30 “(1) ‘Active member’ means a member who is presently employed by a

1 participating public employer in a qualifying position and who has completed
2 the six-month period of service required by ORS 238.015.

3 “(2) ‘Annuity’ means payments for life derived from contributions made
4 by a member as provided in this chapter.

5 “(3) ‘Board’ means the Public Employees Retirement Board.

6 “(4) ‘Calendar year’ means 12 calendar months commencing on January
7 1 and ending on December 31 following.

8 “(5) ‘Continuous service’ means service not interrupted for more than five
9 years, except that such continuous service shall be computed without regard
10 to interruptions in the case of:

11 “(a) An employee who had returned to the service of the employer as of
12 January 1, 1945, and who remained in that employment until having estab-
13 lished membership in the Public Employees Retirement System.

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

19 “(6) ‘Creditable service’ means any period of time during which an active
20 member is being paid a salary by a participating public employer and for
21 which benefits under this chapter are funded by employer contributions and
22 earnings on the fund. For purposes of computing years of ‘creditable
23 service,’ full months and major fractions of a month shall be considered to
24 be one-twelfth of a year and shall be added to all full years. ‘Creditable
25 service’ includes all retirement credit received by a member.

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

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

1 “(a) Persons engaged as independent contractors.

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

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

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

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

17 “(f) Persons employed in positions classified as post-doctoral scholar po-
18 sitions by a public university listed in ORS 352.002, or by the Oregon Health
19 and Science University, under ORS 350.370.

20 “(9) ‘Final average salary’ means whichever of the following is greater:

21 “(a) The average salary per calendar year paid by one or more partic-
22 ipating public employers to an employee who is an active member of the
23 system in three of the calendar years of membership before the effective date
24 of retirement of the employee, in which three years the employee was paid
25 the highest salary. The three calendar years in which the employee was paid
26 the largest total salary may include calendar years in which the employee
27 was employed for less than a full calendar year. If the number of calendar
28 years of active membership before the effective date of retirement of the
29 employee is three or fewer, the final average salary for the employee is the
30 average salary per calendar year paid by one or more participating public

1 employers to the employee in all of those years, without regard to whether
2 the employee was employed for the full calendar year.

3 “(b) One-third of the total salary paid by a participating public employer
4 to an employee who is an active member of the system in the last 36 calendar
5 months of active membership before the effective date of retirement of the
6 employee.

7 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does in-
8 clude:

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

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

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

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

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

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

23 “(15) ‘Member’ means a person who has established membership in the
24 system and whose membership has not been terminated as described in ORS
25 238.095. ‘Member’ includes active, inactive and retired members.

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

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

29 “(a) For a person who establishes membership in the system before Jan-
30 uary 1, 1996, as described in ORS 238.430, 55 years of age if the employee

1 retires at that age as a police officer or firefighter or 58 years of age if the
2 employee retires at that age as other than a police officer or firefighter.

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

7 “(18) ‘Pension’ means annual payments for life derived from contributions
8 by one or more public employers.

9 “(19) ‘Police officer’ includes:

10 “(a) Employees of institutions defined in ORS 421.005 as Department of
11 Corrections institutions whose duties, as assigned by the Director of the
12 Department of Corrections, include the custody of persons committed to the
13 custody of or transferred to the Department of Corrections and employees
14 of the Department of Corrections who were classified as police officers on
15 or before July 27, 1989, whether or not such classification was authorized
16 by law.

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

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

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

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

26 “(f) Police officers who are commissioned by a university under ORS
27 352.121 or 353.125 and who are classified as police officers by the university.

28 “(g) Parole and probation officers employed by the Department of Cor-
29 rections, parole and probation officers who are transferred to county em-
30 ployment under ORS 423.549 and adult parole and probation officers, as

1 defined in ORS 181A.355, who are classified as police officers for the pur-
2 poses of this chapter by the county governing body. If a county classifies
3 adult parole and probation officers as police officers for the purposes of this
4 chapter, and the employees so classified are represented by a labor organ-
5 ization, any proposal by the county to change that classification or to cease
6 to classify adult parole and probation officers as police officers for the pur-
7 poses of this chapter is a mandatory subject of bargaining.

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

9 “(i) Employees of the Port of Portland who are classified as airport police
10 by the Board of Commissioners of the Port of Portland.

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

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

16 “(L) Investigators of the Criminal Justice Division of the Department of
17 Justice.

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

19 “(n) Employees of the Oregon State Lottery Commission who are classi-
20 fied by the Director of the Oregon State Lottery as enforcement agents pur-
21 suant to ORS 461.110.

22 “(o) The Director of the Department of Corrections.

23 “(p) An employee who for seven consecutive years has been classified as
24 a police officer as defined by this section, and who is employed or transferred
25 by the Department of Corrections to fill a position designated by the Direc-
26 tor of the Department of Corrections as being eligible for police officer sta-
27 tus.

28 “(q) An employee of the Department of Corrections classified as a police
29 officer on or prior to July 27, 1989, whether or not that classification was
30 authorized by law, as long as the employee remains in the position held on

1 July 27, 1989. The initial classification of an employee under a system im-
2 plemented pursuant to ORS 240.190 does not affect police officer status.

3 “(r) Employees of a school district who are appointed and duly sworn
4 members of a law enforcement agency of the district as provided in ORS
5 332.531 or otherwise employed full-time as police officers commissioned by
6 the district.

7 “(s) Employees at youth correction facilities and juvenile detention facil-
8 ities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required
9 to hold valid Oregon teaching licenses and who have supervisory, control or
10 teaching responsibilities over juveniles committed to the custody of the De-
11 partment of Corrections or the Oregon Youth Authority.

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

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

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

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

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

30 “(22) ‘Qualifying position’ means one or more jobs with one or more par-

1 participating public employers in which an employee performs 600 or more hours
2 of service in a calendar year, excluding any service in a job for which a
3 participating public employer does not provide benefits under this chapter
4 pursuant to an application made under ORS 238.035.

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

7 “(24) ‘Retired member’ means a member who is retired for service or dis-
8 ability.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 “(F) Any retirement incentive, retirement severance pay, retirement bonus
5 or retirement gratuitous payment;

6 “(G) Payments for periods of leave of absence after the date the employer
7 and employee have agreed that no future services qualifying pursuant to ORS
8 238.015 (3) will be performed, except for sick leave and vacation;

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

14 “(I) Payments made by an employer for insurance coverage provided to a
15 domestic partner of an employee;

16 “(J) Compensation described and authorized under ORS 341.556 that is not
17 paid by the community college employing the faculty member;

18 “(K) Compensation described and authorized under ORS 352.232 that is
19 not paid by the public university employing the officer or employee; [*or*]

20 “(L) Compensation described and authorized under ORS 353.270 that is
21 not paid by Oregon Health and Science University[.]; **or**

22 **“(M) For years beginning on or after January 1, 2020, any amount**
23 **in excess of \$195,000 for a calendar year. If any period over which sal-**
24 **ary is determined is less than 12 months, the \$195,000 limitation for**
25 **that period shall be multiplied by a fraction, the numerator of which**
26 **is the number of months in the determination period and the denom-**
27 **inator of which is 12. On January 1 of each year, the board shall adjust**
28 **the dollar limit provided by this subparagraph to reflect any percent-**
29 **age changes in the Consumer Price Index for All Urban Consumers,**
30 **West Region (All Items), as published by the Bureau of Labor Statis-**

1 **tics of the United States Department of Labor.**

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

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

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

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

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

11 **“SECTION 40.** ORS 238A.005, as amended by section 5, chapter 54,
12 Oregon Laws 2018, and section 2, chapter 101, Oregon Laws 2018, is amended
13 to read:

14 “238A.005. For the purposes of this chapter:

15 “(1) ‘Active member’ means a member of the pension program or the in-
16 dividual account program of the Oregon Public Service Retirement Plan who
17 is actively employed in a qualifying position.

18 “(2) ‘Actuarial equivalent’ means a payment or series of payments having
19 the same value as the payment or series of payments replaced, computed on
20 the basis of interest rate and mortality assumptions adopted by the board.

21 “(3) ‘Board’ means the Public Employees Retirement Board.

22 “(4) ‘Eligible employee’ means a person who performs services for a par-
23 ticipating public employer, including elected officials other than judges. ‘El-
24 igible employee’ does not include:

25 “(a) Persons engaged as independent contractors;

26 “(b) Aliens working under a training or educational visa;

27 “(c) Persons provided sheltered employment or make-work by a public
28 employer;

29 “(d) Persons categorized by a participating public employer as student
30 employees;

1 “(e) Any person who is an inmate of a state institution;

2 “(f) Employees of foreign trade offices of the Oregon Business Develop-
3 ment Department who live and perform services in foreign countries under
4 the provisions of ORS 285A.075 (1)(g);

5 “(g) An employee actively participating in an alternative retirement pro-
6 gram established under ORS 353.250 or an optional retirement plan estab-
7 lished under ORS 341.551;

8 “(h) Employees of a public university listed in ORS 352.002 who are ac-
9 tively participating in an optional retirement plan offered under ORS 243.800;

10 “(i) Persons employed in positions classified as post-doctoral scholar po-
11 sitions by a public university listed in ORS 352.002, or by the Oregon Health
12 and Science University, under ORS 350.370;

13 “(j) Any employee who belongs to a class of employees that was not eli-
14 gible on August 28, 2003, for membership in the system under the provisions
15 of ORS chapter 238 or other law;

16 “(k) Any person who belongs to a class of employees who are not eligible
17 to become members of the Oregon Public Service Retirement Plan under the
18 provisions of ORS 238A.070 (2);

19 “(L) Any person who is retired under ORS 238A.100 to 238A.250 or ORS
20 chapter 238 and who continues to receive retirement benefits while employed;
21 and

22 “(m) Judges.

23 “(5) ‘Firefighter’ means:

24 “(a) A person employed by a local government, as defined in ORS 174.116,
25 whose primary job duties include the fighting of fires;

26 “(b) The State Fire Marshal, the chief deputy state fire marshal and
27 deputy state fire marshals; and

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

1 “(6) ‘Fund’ means the Public Employees Retirement Fund.

2 “(7)(a) ‘Hour of service’ means:

3 “(A) An hour for which an eligible employee is directly or indirectly paid
4 or entitled to payment by a participating public employer for performance
5 of duties in a qualifying position; and

6 “(B) An hour of vacation, holiday, illness, incapacity, jury duty, military
7 duty or authorized leave during which an employee does not perform duties
8 but for which the employee is directly or indirectly paid or entitled to pay-
9 ment by a participating public employer for services in a qualifying position,
10 as long as the hour is within the number of hours regularly scheduled for
11 the performance of duties during the period of vacation, holiday, illness, in-
12 capacity, jury duty, military duty or authorized leave.

13 “(b) ‘Hour of service’ does not include any hour for which payment is
14 made or due under a plan maintained solely for the purpose of complying
15 with applicable unemployment compensation laws.

16 “(8) ‘Inactive member’ means a member of the pension program or the
17 individual account program of the Oregon Public Service Retirement Plan
18 whose membership has not been terminated, who is not a retired member and
19 who is not employed in a qualifying position.

20 “(9) ‘Individual account program’ means the defined contribution individ-
21 ual account program of the Oregon Public Service Retirement Plan estab-
22 lished under ORS 238A.025.

23 “(10) ‘Institution of higher education’ means a public university listed in
24 ORS 352.002, the Oregon Health and Science University or a community
25 college, as defined in ORS 341.005.

26 “(11) ‘Member’ means an eligible employee who has established member-
27 ship in the pension program or the individual account program of the Oregon
28 Public Service Retirement Plan and whose membership has not been termi-
29 nated under ORS 238A.110 or 238A.310.

30 “(12) ‘Participating public employer’ means a public employer as defined

1 in ORS 238.005 that provides retirement benefits for employees of the public
2 employer under the system.

3 “(13) ‘Pension program’ means the defined benefit pension program of the
4 Oregon Public Service Retirement Plan established under ORS 238A.025.

5 “(14) ‘Police officer’ means a police officer as described in ORS 238.005.

6 “(15) ‘Qualifying position’ means one or more jobs with one or more par-
7 ticipating public employers in which an eligible employee performs 600 or
8 more hours of service in a calendar year, excluding any service in a job for
9 which benefits are not provided under the Oregon Public Service Retirement
10 Plan pursuant to ORS 238A.070 (2).

11 “(16) ‘Retired member’ means a pension program member who is receiving
12 a pension as provided in ORS 238A.180 to 238A.195.

13 “(17)(a) ‘Salary’ means the remuneration paid to an active member in re-
14 turn for services to the participating public employer, including
15 remuneration in the form of living quarters, board or other items of value,
16 to the extent the remuneration is includable in the employee’s taxable in-
17 come under Oregon law. ‘Salary’ includes the additional amounts specified
18 in paragraph (b) of this subsection, but does not include the amounts speci-
19 fied in paragraph (c) of this subsection, regardless of whether those amounts
20 are includable in taxable income.

21 “(b) ‘Salary’ includes the following amounts:

22 “(A) Payments of employee and employer money into a deferred compen-
23 sation plan that are made at the election of the employee.

24 “(B) Contributions to a tax-sheltered or deferred annuity that are made
25 at the election of the employee.

26 “(C) Any amount that is contributed to a cafeteria plan or qualified
27 transportation fringe benefit plan by the employer at the election of the
28 employee and that is not includable in the taxable income of the employee
29 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2017.

30 “(D) Any amount that is contributed to a cash or deferred arrangement

1 by the employer at the election of the employee and that is not included in
2 the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in
3 effect on December 31, 2017.

4 “(E) Retroactive payments described in ORS 238.008.

5 “(F) The amount of an employee contribution to the individual account
6 program that is paid by the employer and deducted from the compensation
7 of the employee, as provided under ORS 238A.335 (1) and (2)(a).

8 “(G) The amount of an employee contribution to the individual account
9 program that is not paid by the employer under ORS 238A.335.

10 “(H) Wages of a deceased member paid to a surviving spouse or dependent
11 children under ORS 652.190.

12 “(c) ‘Salary’ does not include the following amounts:

13 “(A) Travel or any other expenses incidental to employer’s business which
14 is reimbursed by the employer.

15 “(B) Payments made on account of an employee’s death.

16 “(C) Any lump sum payment for accumulated unused sick leave, vacation
17 leave or other paid leave.

18 “(D) Any severance payment, accelerated payment of an employment
19 contract for a future period or advance against future wages.

20 “(E) Any retirement incentive, retirement bonus or retirement gratuitous
21 payment.

22 “(F) Payment for a leave of absence after the date the employer and em-
23 ployee have agreed that no future services in a qualifying position will be
24 performed.

25 “(G) Payments for instructional services rendered to public universities
26 listed in ORS 352.002 or the Oregon Health and Science University when
27 those services are in excess of full-time employment subject to this chapter.
28 A person employed under a contract for less than 12 months is subject to this
29 subparagraph only for the months covered by the contract.

30 “(H) The amount of an employee contribution to the individual account

1 program that is paid by the employer and is not deducted from the compen-
2 sation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

3 “(I) Compensation described and authorized under ORS 341.556 that is not
4 paid by the community college employing the faculty member.

5 “(J) Compensation described and authorized under ORS 352.232 that is not
6 paid by the public university employing the officer or employee.

7 “(K) Compensation described and authorized under ORS 353.270 that is
8 not paid by Oregon Health and Science University.

9 “(L) **For years before 2020**, any amount in excess of \$200,000 for a cal-
10 endar year. If any period over which salary is determined is less than 12
11 months, the \$200,000 limitation for that period shall be multiplied by a frac-
12 tion, the numerator of which is the number of months in the determination
13 period and the denominator of which is 12. The board shall adopt rules ad-
14 justing this dollar limit to incorporate cost-of-living adjustments authorized
15 by the Internal Revenue Service.

16 “(M) **For years beginning on or after January 1, 2020, any amount**
17 **in excess of \$195,000 for a calendar year. If any period over which sal-**
18 **ary is determined is less than 12 months, the \$195,000 limitation for**
19 **that period shall be multiplied by a fraction, the numerator of which**
20 **is the number of months in the determination period and the denom-**
21 **inator of which is 12. On January 1 of each year, the board shall adjust**
22 **the dollar limit provided by this subparagraph to reflect any percent-**
23 **age changes in the Consumer Price Index for All Urban Consumers,**
24 **West Region (All Items), as published by the Bureau of Labor Statis-**
25 **tics of the United States Department of Labor.**

26 “(18) ‘System’ means the Public Employees Retirement System.

27 “(19) ‘Workers’ compensation benefits’ means:

28 “(a) Payments made under ORS chapter 656; or

29 “(b) Payments provided in lieu of workers’ compensation benefits under
30 ORS 656.027 (6).

1 **“SECTION 41.** ORS 238.580 is amended to read:

2 “238.580. (1) **Except as provided in subsection (3) of this section,** ORS
3 238.005 (4) and (26), 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250,
4 238.255, 238.260, 238.350, 238.364, 238.410, 238.415, 238.420, 238.445, 238.458,
5 238.460, 238.465, 238.475, 238.600, 238.605, 238.610, 238.618, 238.630, 238.635,
6 238.645, 238.650, 238.655, 238.660, 238.665, 238.670 and 238.705 and the in-
7 creases provided by ORS 238.366 for members of the system who are serving
8 as other than police officers or firefighters apply in respect to service as a
9 judge member.

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

13 **“(3) ORS 238.005 (26)(c)(M) does not apply in respect to service as a
14 judge member.**

15
16 **“PROCEEDS OF SPORTS BETTING**

17
18 **“SECTION 42.** ORS 461.010 is amended to read:

19 “461.010. Unless the context requires otherwise, the definitions contained
20 in this chapter shall govern the construction of this chapter.

21 “(1) ‘Commissioner’ means one of the members of the lottery commission
22 appointed by the Governor pursuant to the Constitution of the State of
23 Oregon and this chapter to oversee the state lottery.

24 “(2) ‘Director’ means the Director of the Oregon State Lottery appointed
25 by the Governor pursuant to the Constitution of the State of Oregon and this
26 chapter as the chief administrator of the Oregon State Lottery.

27 “(3) ‘Lottery’ or ‘state lottery’ means the Oregon State Lottery established
28 and operated pursuant to the Constitution of the State of Oregon and this
29 chapter.

30 “(4) ‘Lottery commission’ or ‘commission’ means the five-member body

1 appointed by the Governor pursuant to the Constitution of the State of
2 Oregon and this chapter to oversee the lottery and the director.

3 “(5) ‘Lottery contractor’ means a person with whom the state lottery has
4 contracted for the purpose of providing goods and services for the state lot-
5 tery.

6 “(6) ‘Lottery game’ or ‘game’ means any procedure authorized by the
7 commission whereby prizes are distributed among persons who have paid, or
8 unconditionally agreed to pay, for tickets or shares that provide the oppor-
9 tunity to win such prizes.

10 “(7) ‘Lottery game retailer’ means a person with whom the lottery com-
11 mission has contracted for the purpose of selling tickets or shares in lottery
12 games to the public.

13 “(8) ‘Lottery vendor’ or ‘vendor’ means any person who submits a bid,
14 proposal or offer to provide goods or services to the commission or lottery.

15 “(9) ‘Person’ means any natural person or corporation, trust, association,
16 partnership, joint venture, subsidiary or other business entity.

17 “(10) **‘Sports betting game’ means a lottery game in which the dis-**
18 **tribution of prizes is based on the results of one or more sporting**
19 **events.**

20 “**SECTION 42a.** ORS 461.010, as amended by section 42 of this 2019 Act,
21 is amended to read:

22 “461.010. Unless the context requires otherwise, the definitions contained
23 in this chapter shall govern the construction of this chapter.

24 “(1) ‘Commissioner’ means one of the members of the lottery commission
25 appointed by the Governor pursuant to the Constitution of the State of
26 Oregon and this chapter to oversee the state lottery.

27 “(2) ‘Director’ means the Director of the Oregon State Lottery appointed
28 by the Governor pursuant to the Constitution of the State of Oregon and this
29 chapter as the chief administrator of the Oregon State Lottery.

30 “(3) ‘Lottery’ or ‘state lottery’ means the Oregon State Lottery established

1 and operated pursuant to the Constitution of the State of Oregon and this
2 chapter.

3 “(4) ‘Lottery commission’ or ‘commission’ means the five-member body
4 appointed by the Governor pursuant to the Constitution of the State of
5 Oregon and this chapter to oversee the lottery and the director.

6 “(5) ‘Lottery contractor’ means a person with whom the state lottery has
7 contracted for the purpose of providing goods and services for the state lot-
8 tery.

9 “(6) ‘Lottery game’ or ‘game’ means any procedure authorized by the
10 commission whereby prizes are distributed among persons who have paid, or
11 unconditionally agreed to pay, for tickets or shares that provide the oppor-
12 tunity to win such prizes.

13 “(7) ‘Lottery game retailer’ means a person with whom the lottery com-
14 mission has contracted for the purpose of selling tickets or shares in lottery
15 games to the public.

16 “(8) ‘Lottery vendor’ or ‘vendor’ means any person who submits a bid,
17 proposal or offer to provide goods or services to the commission or lottery.

18 “(9) ‘Person’ means any natural person or corporation, trust, association,
19 partnership, joint venture, subsidiary or other business entity.

20 “[*(10) ‘Sports betting game’ means a lottery game in which the distribution*
21 *of prizes is based on the results of one or more sporting events.*]

22 **“SECTION 43. Section 44 of this 2019 Act is added to and made a**
23 **part of ORS chapter 461.**

24 **“SECTION 44. (1) The Oregon State Lottery Commission shall sep-**
25 **arately record and account for the costs and net proceeds of sports**
26 **betting games.**

27 **“(2) When the commission transfers net lottery proceeds to the**
28 **Administrative Services Economic Development Fund established un-**
29 **der ORS 461.540, the commission shall certify to the Oregon Depart-**
30 **ment of Administrative Services the amount of such transfer that**

1 represents the net proceeds of sports betting games.

2 “(3) The department shall transfer an amount equal to the net
3 proceeds of sports betting games to the Employer Incentive Fund es-
4 tablished under section 1, chapter 105, Oregon Laws 2018.

5 “SECTION 45. The Legislative Assembly finds that a reduction of
6 employer contributions required under the Public Employees Retire-
7 ment System averts future tax increases that would otherwise be
8 necessary to pay for such contributions, and that the use of lottery
9 revenues under section 44 of this 2019 Act therefore promotes eco-
10 nomic development.

11 “SECTION 45a. Sections 44 and 45 of this 2019 Act are repealed on
12 December 31, 2041.

13

14 “EMPLOYER PROGRAMS

15

16 “SECTION 46. Section 1, chapter 105, Oregon Laws 2018, is amended to
17 read:

18 “**Sec. 1.** (1) The Employer Incentive Fund is established in the State
19 Treasury, separate and distinct from the General Fund. Interest earned by
20 the Employer Incentive Fund shall be credited to the fund[, *but*]. Interest
21 earned **by the fund** may [*not*] be used under section 2, **chapter 105, Oregon**
22 **Laws 2018**, [*of this 2018 Act*] to match lump sum payments made under ORS
23 238.229.

24 “(2) Moneys in the fund are continuously appropriated to the Public Em-
25 ployees Retirement Board for the purposes described in sections 2 and 26,
26 **chapter 105, Oregon Laws 2018** [*of this 2018 Act*].

27 “(3) Moneys in the fund shall be invested in the Oregon Short Term
28 Fund established under ORS 293.728.

29 “SECTION 47. Section 2, chapter 105, Oregon Laws 2018, is amended to
30 read:

1 **“Sec. 2.** (1)(a) The Public Employees Retirement Board shall establish a
2 process for distributing the moneys in the Employer Incentive Fund estab-
3 lished under section 1, **chapter 105, Oregon Laws 2018** [*of this 2018 Act*].

4 “(b) The process must allow a participating public employer to apply to
5 reserve matching amounts in the Employer Incentive Fund by committing to
6 make a qualifying lump sum payment of at least \$25,000 to an account es-
7 tablished under ORS 238.229.

8 “(2) The board shall adopt rules establishing:

9 “(a) The percentage of a lump sum payment that may be matched by dis-
10 tributions from the fund, not to exceed 25 percent of a qualifying lump sum
11 payment.

12 “(b) The maximum matching amount that may be reserved by a partic-
13 ipating public employer, not to exceed the greater of:

14 “(A) Five percent of the unfunded actuarial liability attributable to the
15 employer, as determined in the most recent report prepared under ORS
16 238.605; or

17 “(B) \$300,000.

18 “(c) The qualifications for lump sum payments that may be matched under
19 this section[. *The qualifications must include the following requirements:*]

20 “[(A) *The participating public employer must apply to reserve matching*
21 *funds no later than December 31, 2019.*]

22 “[(B) *The participating public employer must make the qualifying lump sum*
23 *payment no later than July 1, 2023.*]

24 “[(C)], **including a requirement that** a qualifying lump sum payment
25 may not be a payment from moneys borrowed by the employer.

26 “(d) A requirement that the participating public employer participate in
27 the Unfunded Actuarial Liability Resolution Program to develop a plan un-
28 der section 26, **chapter 105, Oregon Laws 2018** [*of this 2018 Act*].

29 “[(3)(a) *The board may begin accepting applications under subsection (1)*
30 *of this section on the date on which the board determines that there are suf-*

1 *ficient moneys in the Employer Incentive Fund.]*

2 “[*(b)*] **(3)(a)** For [180] **90** days after the board begins accepting applica-
3 tions under subsection (1) of this section, a participating public employer
4 may apply to reserve matching amounts from the Employer Incentive Fund
5 under subsection (1) of this section only if the unfunded actuarial liability
6 attributable to the employer, as determined in the most recent report pre-
7 pared under ORS 238.605, is more than 200 percent of the employer’s payroll
8 for members of the Public Employees Retirement System.

9 “[*(c)*] **(b)** After the [180-day] **90-day** period described in paragraph [*(b)*]
10 **(a)** of this subsection, any participating public employer may apply to re-
11 serve matching funds from the Employer Incentive Fund under subsection (1)
12 of this section.

13 “**(4)(a)** The board shall approve applications that meet the qualifications
14 established under subsection (2) of this section in the order in which the
15 applications are submitted. The board shall continue approving applications
16 as long as **adequate** moneys in the Employer Incentive Fund are **projected**
17 **to become** available.

18 “**(b)** After all of the moneys projected to become available in the
19 **Employer Incentive Fund are reserved for matching under paragraph**
20 **(a) of this subsection, the board may establish a waiting list for the**
21 **remaining timely submitted applications and, if sufficient moneys in**
22 **the Employer Incentive Fund become available, shall approve, in the**
23 **order in which the applications were submitted, applications that meet**
24 **the qualifications established under subsection (2) of this section.**

25 “(5) The board shall transfer matching amounts approved under sub-
26 section (4) of this section from the Employer Incentive Fund to the approved
27 employers’ accounts established under ORS 238.229.

28 “(6) The board may transfer moneys from the Employer Incentive Fund
29 to the Public Employees Retirement Fund established under ORS 238.660 for
30 crediting to the reserves for pension accounts and annuities as provided in

1 ORS 238.670 (2).

2 “(7) The board may use moneys in the Employer Incentive Fund for rea-
3 sonable administrative costs incurred under this section.

4 **“SECTION 48.** Section 3, chapter 105, Oregon Laws 2018, is amended to
5 read:

6 **“Sec. 3.** (1) Section 2, **chapter 105, Oregon Laws 2018, as amended by**
7 **section 47 of this 2019 Act, [of this 2018 Act]** is repealed [*January 2, 2025*]
8 **July 1, 2042.**

9 “(2)(a) The Employer Incentive Fund established under section 1, **chapter**
10 **105, Oregon Laws 2018, [of this 2018 Act]** is abolished on [*January 2, 2025*]
11 **July 1, 2042.**

12 “(b)(A) **Except as provided in subparagraph (B) of this paragraph,**
13 the unexpended moneys remaining in the Employer Incentive Fund on [*Jan-*
14 *uary 2, 2025*] **July 1, 2042,** shall be transferred to the General Fund.

15 **“(B) The unexpended moneys remaining in the Employer Incentive**
16 **Fund on July 1, 2042, that are attributable to sports betting games, as**
17 **defined in ORS 461.010, shall be transferred to the Administrative**
18 **Services Economic Development Fund.**

19 **“SECTION 49.** Section 13, chapter 105, Oregon Laws 2018, is amended to
20 read:

21 **“Sec. 13.** (1) Not earlier than July 1 and not later than October 1 of the
22 years 2019, 2021 and 2023, the division of the Oregon Department of Admin-
23 istrative Services that serves as office of economic analysis shall:

24 “(a) Calculate the rate of change in the tax liability from personal income
25 taxes on taxable capital gains during the five preceding biennia; and

26 “(b) Use the rate of change calculated under paragraph (a) of this sub-
27 section to forecast the tax liability from personal income taxes on taxable
28 capital gains for the biennium beginning on July 1 of the year in which the
29 calculation is made.

30 “(2) Not later than November 1 of the odd-numbered year following each

1 calculation under subsection (1) of this section, the Oregon Department of
2 Administrative Services, in consultation with the Department of Revenue,
3 shall estimate the tax liability from personal income taxes on taxable capital
4 gains for the previous biennium.

5 “(3) Not later than November 30 of the odd-numbered year in which the
6 estimate is made under subsection (2) of this section, the Oregon Department
7 of Administrative Services, in consultation with the Department of Revenue,
8 shall determine whether the tax liability from personal income taxes on
9 capital gains estimated under subsection (2) of this section, less any amount
10 required to be returned to taxpayers under ORS 291.349, exceeds the tax li-
11 ability from personal income taxes on taxable capital gains forecasted under
12 subsection (1) of this section.

13 “(4) Except as provided in subsection (5) of this section, **on the last**
14 **business day of the odd-numbered year in which the estimate is made**
15 **under subsection (2) of this section**, the Department of Revenue shall
16 transfer an amount equal to 25 percent of any excess calculated under sub-
17 section (3) of this section to the School Districts Unfunded Liability Fund
18 established in section 24, **chapter 105, Oregon Laws 2018** [*of this 2018*
19 *Act*].

20 “(5) The Department of Revenue may not make a transfer under sub-
21 section (4) of this section if:

22 “(a) The Legislative Assembly has appropriated moneys from the Oregon
23 Rainy Day Fund under ORS 293.144 on or after [*the effective date of this 2018*
24 *Act*] **June 2, 2018**; or

25 “(b) The Public Employees Retirement System is more than 90 percent
26 funded as determined in accordance with rules adopted by the Public Em-
27 ployees Retirement Board.

28 “(6) The Department of Revenue shall retain unreceipted revenue from the
29 tax imposed under ORS chapter 316 in an amount necessary to make the
30 transfer required under subsection (4) of this section. The department shall

1 make the transfer out of the unreceipted revenue in lieu of paying the reve-
2 nue over to the State Treasurer for deposit in the General Fund.

3 **“SECTION 50.** Section 15, chapter 105, Oregon Laws 2018, is amended to
4 read:

5 **“Sec. 15.** (1) Not earlier than July 1 and not later than October 1 of the
6 years 2019, 2021 and 2023, the division of the Oregon Department of Admin-
7 istrative Services that serves as office of economic analysis shall:

8 “(a) Calculate the rate of change in collections from estate taxes during
9 the five preceding biennia; and

10 “(b) Use the rate of change calculated under paragraph (a) of this sub-
11 section to forecast the collections from estate taxes for the biennium begin-
12 ning on July 1 of the year in which the calculation is made.

13 “(2) Not later than November 1 of the odd-numbered year following each
14 calculation under subsection (1) of this section, the Oregon Department of
15 Administrative Services, in consultation with the Department of Revenue,
16 shall estimate the collections from estate taxes for the previous biennium.

17 “(3) Not later than November 30 of the odd-numbered year in which the
18 estimate is made under subsection (2) of this section, the Oregon Department
19 of Administrative Services, in consultation with the Department of Revenue,
20 shall determine whether the collections from estate taxes estimated under
21 subsection (2) of this section exceed the collections from estate taxes fore-
22 casted under subsection (1) of this section.

23 **“(4) On the last business day of the odd-numbered year in which the**
24 **estimate is made under subsection (2) of this section,** the Department
25 of Revenue shall transfer an amount equal to the amount of any excess cal-
26 culated under subsection (3) of this section, less any amount required to be
27 returned to taxpayers under ORS 291.349, to the School Districts Unfunded
28 Liability Fund established in section 24, **chapter 105, Oregon Laws 2018**
29 *[of this 2018 Act]*.

30 “(5) The Department of Revenue shall retain unreceipted revenue from

1 estate taxes imposed under ORS 118.005 to 118.540 in an amount necessary
2 to make the transfer required under subsection (4) of this section. The de-
3 partment shall make the transfer out of the unreceipted revenue in lieu of
4 paying the revenue over to the State Treasurer for deposit in the General
5 Fund.

6 **“SECTION 51.** Section 24, chapter 105, Oregon Laws 2018, is amended to
7 read:

8 **“Sec. 24.** (1) The School Districts Unfunded Liability Fund is established
9 in the State Treasury, separate and distinct from the General Fund. Interest
10 earned by the School Districts Unfunded Liability Fund shall be credited to
11 the fund. The fund consists of moneys transferred to the fund under sections
12 12, 13, 15 and 22, **chapter 105, Oregon Laws 2018, [of this 2018 Act]** and
13 other moneys transferred, allocated or appropriated to the fund.

14 **“(2)** Moneys in the fund are continuously appropriated to the Public Em-
15 ployees Retirement Board for the purpose of establishing and funding a
16 pooled account to be applied against the liabilities of participating public
17 employers, as defined in ORS 238.005, that are school districts.

18 **“(3) Moneys in the fund shall be invested in the Oregon Short Term**
19 **Fund established under ORS 293.728.**

20 **“[(3)] (4)** The board shall establish an account in the Public Employees
21 Retirement Fund for the moneys in the School Districts Unfunded Liability
22 Fund.

23 **“[(4)] (5)** The board shall adopt rules providing for:

24 **“(a)** Proportional distribution to school districts of the moneys in the
25 account established under subsection **[(3)] (4)** of this section;

26 **“(b)** Amortization of the moneys distributed; and

27 **“(c)** Administration of the account established under subsection **[(3)] (4)**
28 of this section in the same manner as accounts established under ORS
29 238.229 (2).

30 **“[(5)] (6)** No later than February 1 of each odd-numbered year, the board

1 shall report to the Oregon Department of Administrative Services and the
2 Legislative Fiscal Officer an estimate of how moneys will be distributed un-
3 der this section in the following biennium.

4 **“SECTION 52. The School Districts Unfunded Liability Fund estab-**
5 **lished under section 24, chapter 105, Oregon Laws 2018, is abolished on**
6 **July 1, 2042. The unexpended moneys remaining in the fund on July**
7 **1, 2042, shall be transferred to the General Fund.**

8 **“SECTION 53.** Section 29, chapter 105, Oregon Laws 2018, is amended to
9 read:

10 **“Sec. 29.** Section 28 [*of this 2018 Act*], **chapter 105, Oregon Laws 2018,**
11 is repealed on January 2, [2027] **2042.**

12 **“SECTION 54.** Section 26, chapter 105, Oregon Laws 2018, is amended to
13 read:

14 **“Sec. 26.** (1) The Public Employees Retirement Board shall establish an
15 Unfunded Actuarial Liability Resolution Program. Under the program, the
16 board shall provide technical expertise to participating public employers in
17 developing **funding** plans to improve the employers’ funded status and to
18 manage projected employer contribution rate changes. [*Participating public*
19 *employers are not required to participate in the program.*] **Funding plans**
20 **developed under the program must be based on actuarial reports pre-**
21 **pared under ORS 238.605.**

22 **“(2) A participating public employer shall participate in the pro-**
23 **gram.**

24 **“[(2)] (3)** The board may use moneys in the Employer Incentive Fund es-
25 tablished in section 1 [*of this 2018 Act*], **chapter 105, Oregon Laws 2018,**
26 for reasonable administrative costs incurred under this section.

27 **“SECTION 55.** Section 26, chapter 105, Oregon Laws 2018, as amended
28 by section 54 of this 2019 Act, is amended to read:

29 **“Sec. 26.** (1) The Public Employees Retirement Board shall establish an
30 Unfunded Actuarial Liability Resolution Program. Under the program, the

1 board shall provide technical expertise to participating public employers in
2 developing funding plans to improve the employers' funded status and to
3 manage projected employer contribution rate changes. Funding plans devel-
4 oped under the program must be based on actuarial reports prepared under
5 ORS 238.605.

6 “(2) A participating public employer shall participate in the program.

7 “[*(3) The board may use moneys in the Employer Incentive Fund estab-*
8 *lished in section 1, chapter 105, Oregon Laws 2018, for reasonable adminis-*
9 *trative costs incurred under this section.*]

10

11

“REPORTING

12

13 **“SECTION 56. Section 57 of this 2019 Act is added to and made a**
14 **part of ORS chapter 238.**

15 **“SECTION 57. At least 30 days before the Public Employees Retire-**
16 **ment Board adopts changes to actuarial methods and assumptions**
17 **used for purposes of the Public Employees Retirement System, the**
18 **board shall submit a report to the Joint Committee on Ways and**
19 **Means or the Joint Interim Committee on Ways and Means detailing**
20 **the proposed changes and the associated, actuarially determined im-**
21 **impact to the total liability of the system, the accrued liability of the**
22 **system and employer contribution rates.**

23

24

“APPROPRIATION

25

26 **SECTION 58. In addition to and not in lieu of any other appropri-**
27 **ation, there is appropriated to the Public Employees Retirement**
28 **Board, for the biennium beginning July 1, 2019, out of the General**
29 **Fund, the amount of \$100,000,000, to be deposited in the Employer In-**
30 **centive Fund established under section 1, chapter 105, Oregon Laws**

1 2018.

2 **SECTION 59.** Notwithstanding any other law limiting expenditures,
3 the amount of \$100,000,000 is established for the biennium beginning
4 July 1, 2019, as the maximum limit for payment of expenses from the
5 Employer Incentive Fund established under section 1, chapter 105,
6 Oregon Laws 2018, by the Public Employees Retirement Board.

7
8 **“OPERATIVE DATES AND APPLICABILITY**

9
10 **“SECTION 60. Operative date for provisions relating to employee**
11 **pension stability contributions.** (1) Section 3 of this 2019 Act and the
12 amendments to ORS 238.105, 238.115, 238.265, 238.300, 238.305, 238.320,
13 238.325, 238.395, 238A.110, 238A.120, 238A.320, 238A.330, 238A.335, 238A.375,
14 238A.410, 243.800 and 341.551 by sections 1 and 4 to 19 of this 2019 Act
15 become operative on July 1, 2020.

16 **“(2) The Public Employees Retirement Board may take any action**
17 **before the operative date specified in subsection (1) of this section to**
18 **enable the board to exercise, on and after the operative date specified**
19 **in subsection (1) of this section, all of the duties, functions and powers**
20 **conferred on the board by section 3 of this 2019 Act and the amend-**
21 **ments to ORS 238.105, 238.115, 238.265, 238.300, 238.305, 238.320, 238.325,**
22 **238.395, 238A.110, 238A.120, 238A.320, 238A.330, 238A.335, 238A.375,**
23 **238A.410, 243.800 and 341.551 by sections 1 and 4 to 19 of this 2019 Act.**

24 **“SECTION 61. Applicability and operative date for provisions relat-**
25 **ing to lump sum payments.** (1) The amendments to section 3b, chapter
26 105, Oregon Laws 2018, by section 20 of this 2019 Act apply to lump sum
27 payments made before January 1, 2024.

28 **“(2) The amendments to section 3b, chapter 105, Oregon Laws 2018,**
29 **by section 21 of this 2019 Act become operative on January 1, 2024.**

30 **“SECTION 62. Operative date for provisions relating to final aver-**

1 age salary. (1) The amendments to ORS 238.005, 238.580 and 238A.005
2 by sections 39 to 41 of this 2019 Act become operative on January 1,
3 2020.

4 “(2) The Public Employees Retirement Board may take any action
5 before the operative date specified in subsection (1) of this section to
6 enable the board to exercise, on and after the operative date specified
7 in subsection (1) of this section, all of the duties, functions and powers
8 conferred on the board by the amendments to ORS 238.005, 238.580 and
9 238A.005 by sections 39 to 41 of this 2019 Act.

10 “SECTION 63. Operative date for certain provisions relating to
11 proceeds of sports betting. The amendments to ORS 461.010 by section
12 42a of this 2019 Act become operative on July 1, 2042.

13 “SECTION 64. Operative date for certain provisions relating to
14 Employer Incentive Fund. The amendments to section 26, chapter 105,
15 Oregon Laws 2018, by section 55 of this 2019 Act become operative on
16 July 1, 2042.

17

18 “REVIEW BY SUPREME COURT

19

20 “SECTION 65. (1) Jurisdiction is conferred upon the Supreme Court
21 to determine in the manner provided by this section whether this 2019
22 Act breaches any contract between members of the Public Employees
23 Retirement System and their employers or violates any provision of
24 the Oregon Constitution or of the United States Constitution, includ-
25 ing but not limited to impairment of contract rights of members of the
26 Public Employees Retirement System under Article I, section 21, of the
27 Oregon Constitution, or Article I, section 10, clause 1, of the United
28 States Constitution.

29 “(2) A person who is adversely affected by this 2019 Act or who will
30 be adversely affected by this 2019 Act may institute a proceeding for

1 review by filing with the Supreme Court a petition that meets the
2 following requirements:

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

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

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

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

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

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

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

17 “(6)(a) The Supreme Court shall allow members of the Legislative
18 Assembly to intervene in any proceeding relating to this 2019 Act. Af-
19 ter a member intervenes in a proceeding relating to this 2019 Act, the
20 member has standing to participate in the proceeding even if the
21 member ceases to be a member of the Legislative Assembly.

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

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

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

