

SB 111-8  
(LC 588)  
3/15/21 (MNJ/ps)

Requested by SENATE COMMITTEE ON LABOR AND BUSINESS

**PROPOSED AMENDMENTS TO  
SENATE BILL 111**

1 On page 1 of the printed bill, line 3, delete “and 238A.375” and insert “,  
2 238A.230, 238A.375, 338.135 and 353.100”.

3 Delete lines 6 through 31 and delete pages 2 through 10 and insert:

4 **“SECTION 1.** ORS 238.082 is amended to read:

5 “238.082. (1) Subject to the limitations in this section, any public employer  
6 may employ any member who is retired for service if the administrative head  
7 of the public employer is satisfied that such employment is in the public in-  
8 terest.

9 “(2) Except as provided in this section, the period or periods of employ-  
10 ment by one or more public employers of a retired member who is reemployed  
11 under this section may not total 1,040 hours or more in any calendar year.

12 “(3) A retired member who is receiving old-age, survivors or disability  
13 insurance benefits under the federal Social Security Act may be employed  
14 under this section for the number of hours permitted by subsection (2) of this  
15 section, or for the number of hours for which the salary equals the maximum  
16 allowed for receipt of the full amount of those benefits to which the person  
17 is entitled, whichever is greater.

18 “(4) Except as provided in subsection (9) of this section, the limitations  
19 on employment imposed by subsections (2) and (3) of this section do not apply  
20 to a retired member who is employed as a teacher or as an administrator,  
21 as those terms are defined in ORS 342.120, if the retired member is employed

1 by a school district or community college district located within a county  
2 with a population of not more than 35,000 inhabitants according to the latest  
3 federal decennial census, or is employed by an education service district and  
4 the retired member's primary work duties are performed in a county with a  
5 population of not more than 35,000 inhabitants according to the latest federal  
6 decennial census. A retired member who is employed under this subsection  
7 as a teacher, as defined in ORS 342.120, by the same public employer that  
8 employed the member at the time of retirement remains in the same collec-  
9 tive bargaining unit that included the member before retirement.

10 “(5) Except as provided in subsection (9) of this section, the limitations  
11 on employment imposed by subsections (2) and (3) of this section do not apply  
12 to a retired member who is employed:

13 “(a) By the sheriff of a county with a population of fewer than 75,000  
14 inhabitants, according to the latest federal decennial census;

15 “(b) By the municipal police department of a city with a population of  
16 fewer than 15,000 inhabitants, according to the latest federal decennial cen-  
17 sus;

18 “(c) By the state or a county for work in a correctional institution located  
19 in a county with a population of fewer than 75,000 inhabitants, according to  
20 the latest federal decennial census;

21 “(d) By the Black Butte Ranch Rural Fire Protection District, the Black  
22 Butte Ranch Service District or the Sunriver Service District;

23 “(e) By the Oregon State Police for work in a county with a population  
24 of fewer than 75,000 inhabitants, according to the latest federal decennial  
25 census;

26 “(f) As a deputy director or assistant director of the Department of Hu-  
27 man Services, if the Governor approves the exemption for the person from  
28 the limitations on employment imposed in subsections (2) and (3) of this  
29 section;

30 “(g) As a deputy director or assistant director of the Oregon Health Au-

1 thority, if the Governor approves the exemption for the person from the  
2 limitations on employment imposed in subsections (2) and (3) of this section;

3 “(h) As a special campus security officer commissioned by the governing  
4 board of a public university listed in ORS 352.002 under ORS 352.118;

5 “(i) As a security officer for a community college, as defined in ORS  
6 341.005; or

7 “(j) By the Harney County Health District as a person licensed, registered  
8 or certified to provide health services.

9 “(6) Except as provided in subsection (9) of this section, the limitations  
10 on employment imposed by subsections (2) and (3) of this section do not apply  
11 to a retired member who is employed to temporarily replace an employee who  
12 serves in the National Guard or in a reserve component of the Armed Forces  
13 of the United States and who is called to federal active duty.

14 “(7) Except as provided in subsection (9) of this section, the limitations  
15 on employment imposed by subsections (2) and (3) of this section do not apply  
16 to a retired member who is employed by a road assessment district organized  
17 under ORS 371.405 to 371.535.

18 “(8) Except as provided in subsection (9) of this section, the limitations  
19 on employment imposed by subsections (2) and (3) of this section do not apply  
20 to a retired member who is a nurse and is employed by a public employer  
21 as a nurse or for the purpose of teaching nursing during the period in which  
22 a nursing workforce shortage declared by the Legislative Assembly or the  
23 Governor is in effect.

24 “(9)(a) Except as provided in paragraph (b) of this subsection, subsections  
25 (4) to (8) of this section do not apply to any member who retires under the  
26 provisions of ORS 238.280 (1), (2) or (3).

27 “(b) Subsection (4) of this section applies to a person who retires under  
28 the provisions of ORS 238.280 (1), (2) or (3) as long as the *[person’s date of*  
29 *retirement is more than]* **person is absent from service with all partic-**  
30 **ipating public employers for at least** six months before the date the person

1 is employed under subsection (4) of this section.

2 “(10) Employment under this section does not affect the status of a person  
3 as a retired member of the system and a recipient of retirement benefits un-  
4 der this chapter.

5 “(11) Hours worked by a person employed under subsections (4) to (8) of  
6 this section shall not be counted for the purpose of the limitations on em-  
7 ployment imposed by subsections (2) and (3) of this section.

8 “**SECTION 2.** Section 35, chapter 355, Oregon Laws 2019, is amended to  
9 read:

10 “**Sec. 35.** (1) Notwithstanding ORS [238.082 (2)] **237.650 and any pro-**  
11 **vision of this chapter** and subject to the limitations in this section, during  
12 calendar year 2020, 2021, 2022, 2023 or 2024, a participating public employer  
13 may employ any retired member without limitation on the hours worked by  
14 the retired member if the administrative head of the public employer is sat-  
15 isfied that the employment is in the public interest.

16 “(2) A public employer that employs a retired member [*under ORS 238.082*  
17 *or 238.088 (2)*] during calendar year 2020, 2021, 2022, 2023 or 2024 shall con-  
18 tribute to the Public Employees Retirement Board the percentage of the  
19 member’s wages that would have been contributed to the board under ORS  
20 238.225 if the member were an active member of the Public Employees Re-  
21 tirement System. Employer contributions made under this section are in ad-  
22 dition to employer contributions made under ORS 238.225. The board shall  
23 apply contributions made by a public employer under this subsection against  
24 the liabilities of the public employer. The board shall adopt rules governing  
25 payments made under this subsection.

26 “[*(3) A retired member who is receiving old-age, survivors or disability in-*  
27 *surance benefits under the federal Social Security Act may be employed during*  
28 *calendar year 2020, 2021, 2022, 2023 or 2024 for no more than the number of*  
29 *hours for which the salary equals the maximum allowed for receipt of the full*  
30 *amount of those benefits to which the person is entitled.*]

1       “[(4)] (3) This section does not apply to any member who retires under the  
2 provisions of ORS 238.280 (1), (2) or (3), unless the [*person’s date of retirement*  
3 *is more than*] **person is absent from employment with all participating**  
4 **public employers for at least** six months before the date the person is  
5 employed under this section.

6       “[(5)] (4) Employment under this section does not affect the status of a  
7 person as a retired member of the system and a recipient of retirement ben-  
8 efits under this chapter.

9       “**SECTION 3.** Section 37, chapter 355, Oregon Laws 2019, is amended to  
10 read:

11       “**Sec. 37.** (1) Notwithstanding ORS [238A.245] **237.650 and any provision**  
12 **of this chapter** and subject to the limitations in this section, during calen-  
13 dar year 2020, 2021, 2022, 2023 or 2024, a participating public employer may  
14 employ any retired member without limitation on the hours worked by the  
15 retired member if the administrative head of the public employer is satisfied  
16 that the employment is in the public interest. The Public Employees Retire-  
17 ment Board shall continue making pension payments to a retired member of  
18 the pension program who is reemployed under this section.

19       “(2) A public employer that employs a retired member during calendar  
20 year 2020, 2021, 2022, 2023 or 2024 shall contribute to the board the percent-  
21 age of the member’s wages that would have been contributed to the board  
22 under ORS 238A.220 if the member were an active member of the Public  
23 Employees Retirement System. Employer contributions made under this  
24 section are in addition to employer contributions made under ORS 238A.220.  
25 The board shall apply contributions made by a public employer under this  
26 subsection against the liabilities of the public employer. The board shall  
27 adopt rules governing payments made under this subsection.

28       “[(3)] *A retired member who is receiving old-age, survivors or disability in-*  
29 *surance benefits under the federal Social Security Act may be employed during*  
30 *calendar year 2020, 2021, 2022, 2023 or 2024 for no more than the number of*

1 *hours for which the salary equals the maximum allowed for receipt of the full*  
2 *amount of those benefits to which the person is entitled.]*

3 “[~~(4)~~] **(3)** This section does not apply to any member who retires under the  
4 provisions of ORS 238A.185, unless the [*person’s date of retirement is more*  
5 *than*] **person is absent from employment with all participating public**  
6 **employers for at least** six months before the date the person is employed  
7 under this section.

8 “[~~(5)~~] **(4)** Employment under this section does not affect the status of a  
9 person as a retired member of the pension program and a recipient of re-  
10 tirement benefits under this chapter.

11 **“SECTION 4.** ORS 238A.120 is amended to read:

12 “238A.120. [*A vested*] **An** inactive member who withdraws from the indi-  
13 vidual account program under ORS 238A.375 cancels the person’s membership  
14 in the Public Employees Retirement System. If the person is thereafter re-  
15 employed by a participating public employer:

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

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

21 **“SECTION 5.** ORS 238A.375 is amended to read:

22 “238A.375. (1)**(a)** An inactive member of the individual account program  
23 may elect to receive a distribution of the amounts in the member’s employee  
24 account, rollover account, employer account and employee pension stability  
25 account to the extent the member is vested in those accounts under ORS  
26 238A.320 if the inactive member:

27 **“(A)** Has [*separated*] **a bona fide separation** from all service with par-  
28 ticipating public employers [*and with*];

29 **“(B)** **Is not employed with, or has a bona fide separation from, all**  
30 employers who are treated as part of a participating public employer’s con-

1 trolled group under the federal laws and rules governing the status of the  
2 Public Employees Retirement System and the Public Employees Retirement  
3 Fund as a qualified governmental retirement plan and trust; **and**

4 **“(C) Has not attained earliest retirement age.**

5 **“(b) The board shall deny the distribution, or take all steps neces-**  
6 **sary to recover distributed amounts, if the board determines that the**  
7 **member’s separation is not a bona fide separation.**

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

12 “(3) A member may not make an election under this section for less than  
13 all of the member’s individual accounts described in ORS 238A.350, and the  
14 member’s employee pension stability account described in ORS 238A.353, in  
15 which the member is vested.

16 “(4) A member who is [*vested in*] **also a member of** the pension program  
17 established under this chapter and who withdraws the member’s accounts  
18 under this section cancels all membership rights in the system.

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

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

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

1 “238.105. (1) Whenever, within five years after the employee is separated  
2 from all service entitling the employee to membership in the Public Em-  
3 ployees Retirement System, an employee who has withdrawn the amount  
4 credited to the member account of the member reenters the service of an  
5 employer participating in the system, the employee’s rights in the system  
6 that were forfeited by the withdrawal shall be restored upon repaying to the  
7 Public Employees Retirement Board within one year after reentering the  
8 service of the employer, the full amount so withdrawn, **including the**  
9 **amount withdrawn from the member’s account established under ORS**  
10 **238A.353**, together with the interest that would have been accumulated on  
11 the sum had the amount not been withdrawn.

12 “(2) Restoration of rights under this section does not affect any forfeiture  
13 of rights of a person by reason of[:]

14 “[*(a)*] withdrawal of an account established under ORS 238.440[; *or*]

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

16 **“SECTION 7.** ORS 238.730 is amended to read:

17 “238.730. (1) The Public Employees Retirement Board shall establish an  
18 Unfunded Actuarial Liability Resolution Program. Under the program, the  
19 board shall provide technical expertise [*to participating public employers in*  
20 *developing funding plans to improve the employers’ funded status and*] to  
21 manage projected employer contribution rate changes. Funding plans devel-  
22 oped under the program must be based on actuarial reports prepared under  
23 ORS 238.605.

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

25 “(3) The board may use moneys in the Employer Incentive Fund estab-  
26 lished in section 1, chapter 105, Oregon Laws 2018, for reasonable adminis-  
27 trative costs incurred under this section.

28 **“SECTION 8.** ORS 238.730, as amended by section 55, chapter 355, Oregon  
29 Laws 2019, is amended to read:

30 “238.730. (1) The Public Employees Retirement Board shall establish an



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

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

8 “**SECTION 9.** Section 2, chapter 105, Oregon Laws 2018, as amended by  
9 section 47, chapter 355, Oregon Laws 2019, is amended to read:

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

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

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

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

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

23 “(A) Five percent of the unfunded actuarial liability attributable to the  
24 employer, as determined in the most recent report prepared under ORS  
25 238.605; or

26 “(B) \$300,000.

27 “(c) The qualifications for lump sum payments that may be matched under  
28 this section, including a requirement that a qualifying lump sum payment  
29 may not be a payment from moneys borrowed by the employer.

30 “(d) A requirement that the participating public employer participate in

1 the Unfunded Actuarial Liability Resolution Program to develop a plan un-  
2 der [section 26, chapter 105, Oregon Laws 2018] **ORS 238.730**.

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

10 “(b) After the 90-day period described in paragraph (a) of this subsection,  
11 any participating public employer may apply to reserve matching funds from  
12 the Employer Incentive Fund under subsection (1) 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 Em-  
19 ployer Incentive Fund are reserved for matching under paragraph (a) of this  
20 subsection, the board may establish a waiting list for the remaining timely  
21 submitted applications and, if sufficient moneys in the Employer Incentive  
22 Fund become available, shall approve, in the order in which the applications  
23 were submitted, applications that meet the qualifications established under  
24 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 10.** ORS 238.395 is amended to read:

5 “238.395. (1)(a) In addition to any other benefits under this chapter, a  
6 death benefit, provided by contributions of the public employer under ORS  
7 238.225 and, for benefits that accrue on or after July 1, 2020, amounts in the  
8 employee pension stability account established for the member under ORS  
9 238A.353, shall be paid to the beneficiaries designated under ORS 238.390 (1)  
10 of a person who is an active or inactive member of the Public Employees  
11 Retirement System and who dies as a result of injuries received while em-  
12 ployed in the service of the public employer or within 120 days after termi-  
13 nation from service with a participating public employer. A member who is  
14 on a leave of absence without pay from employment with a participating  
15 public employer has not terminated service with that participating public  
16 employer for the purposes of this section.

17 “(b) The death benefit under this subsection is an amount equal to the  
18 amount in the member account of the deceased member at the time of death.

19 “(c) In the event that a beneficiary has not been named as provided in  
20 paragraph (a) of this subsection and ORS 238.390 (1), the death benefit under  
21 this subsection shall be paid in the manner provided for payment of money  
22 credited to the member account of the member in ORS 238.390 (2).

23 “(d) The beneficiary designated under paragraph (a) of this subsection and  
24 ORS 238.390 (1) may elect to receive the amount payable in actuarially de-  
25 termined monthly payments for the life of such beneficiary as long as such  
26 monthly payments, plus the monthly amount if elected under ORS 238.390 (3),  
27 are at least \$200.

28 “(e) Interest upon the death benefit provided by this subsection accrues  
29 until the date that the benefit is distributed. The Public Employees Retire-  
30 ment Board shall establish procedures for computing interest to be credited

1 on the benefit for the period between the date of death and date of distrib-  
2 ution.

3 “(2)(a) If a member of the system dies while employed in the service of a  
4 participating public employer or within 120 days after termination from ser-  
5 vice with a participating public employer and the member’s spouse is the  
6 member’s beneficiary under ORS 238.390, the member’s spouse may elect to  
7 receive the benefit provided under this subsection in lieu of the death bene-  
8 fits provided under ORS 238.390 and subsection (1) of this section.

9 “(b) The member’s spouse must notify the board in writing of an election  
10 under this section no later than 60 days after the date of death of the mem-  
11 ber.

12 “[*(c) The death benefit to be paid under this subsection is for the life of the*  
13 *member’s spouse and is the actuarial equivalent of 50 percent of the service*  
14 *retirement allowance that would otherwise have been paid to the deceased*  
15 *member, which shall be calculated:*]

16 “[*(A) As of the date of death, if the member dies after the earliest retire-*  
17 *ment date for the member under ORS 238.280; or]*

18 “[*(B) As if the member became an inactive member on the date of death and*  
19 *retired at the earliest retirement date for the member under ORS 238.280.]*

20 “**(c) The death benefit to be paid under this subsection is for the life**  
21 **of the member’s spouse and is:**

22 “**(A) If the member dies before the earliest retirement date for the**  
23 **member under ORS 238.280, the actuarial equivalent of 50 percent of**  
24 **the service retirement allowance that would otherwise have been paid**  
25 **to the deceased member, which shall be calculated as if the member**  
26 **became an inactive member on the date of death and retired at the**  
27 **earliest retirement date for the member under ORS 238.280;**

28 “**(B) If the member dies on or after the earliest retirement date for**  
29 **the member under ORS 238.280 and before normal retirement age, as**  
30 **defined in ORS 238.005, the actuarial equivalent of the service retire-**

1 **ment allowance that would otherwise have been paid to the deceased**  
2 **member, which shall be calculated as if the member retired under ORS**  
3 **238.280 and as if the member’s retirement date was the first of the**  
4 **month following the date of death of the member; or**

5 **“(C) If the member dies on or after reaching normal retirement age**  
6 **as defined in ORS 238.005, the actuarial equivalent of the benefit that**  
7 **would otherwise have been paid to the deceased member, which shall**  
8 **be calculated under ORS 238.300 as if the member’s retirement date**  
9 **was the first of the month following the date of death of the member.**

10 **“(d) The death benefit provided under this subsection shall be funded in**  
11 **the same manner as described under ORS 238.300 and is first effective**  
12 **on the first day of the month following [the election of the member’s spouse**  
13 **to receive the death benefit under this subsection] the date of death of the**  
14 **member. The member’s spouse may elect to delay payment of the death**  
15 **benefit, which shall be actuarially adjusted for age and interest when**  
16 **payments commence, but payment must commence no later than December**  
17 **31 of the calendar year in which the deceased member would have reached**  
18 **70-1/2 years of age.**

19 **“(3) Payment by the board of additional death benefits in the manner**  
20 **provided by this section completely discharges the board and system on ac-**  
21 **count of the death, and shall hold the board and system harmless from any**  
22 **claim for wrongful payment.**

23 **“SECTION 11. ORS 238A.230 is amended to read:**

24 **“238A.230. (1) If a member of the pension program who is vested dies be-**  
25 **fore the member’s effective date of retirement, the Public Employees Retire-**  
26 **ment Board shall pay the death benefit provided for in this section to:**

27 **“(a) The spouse of the member to the extent not provided to a former**  
28 **spouse in accordance with a judgment or order under ORS 238.465;**

29 **“(b) The former spouse of the member as provided in a judgment or order**  
30 **under ORS 238.465; or**

1 “(c) Any other person who is constitutionally required to be treated in  
2 the same manner as a spouse for the purpose of retirement benefits.

3 “[*(2)(a) The death benefit to be paid under this section shall be for the life*  
4 *of the spouse, former spouse or other person who is constitutionally required*  
5 *to be treated in the same manner as a spouse, and shall be the actuarial*  
6 *equivalent of 50 percent of the pension that would otherwise have been paid*  
7 *to the deceased member.*]

8 “[*(b) For the purpose of paragraph (a) of this subsection, the amount of the*  
9 *pension that would otherwise have been paid to the deceased member shall be*  
10 *calculated:*]

11 “[*(A) As of the date of death if the member dies after the earliest retirement*  
12 *date for the member under ORS 238A.165; or]*

13 “[*(B) As if the member became an inactive member on the date of death and*  
14 *thereafter retired at the earliest retirement date if the member dies before the*  
15 *earliest retirement date for the member under ORS 238A.165.*]

16 “**(2) The death benefit to be paid under this subsection is for the life**  
17 **of the member’s spouse, former spouse or other person who is consti-**  
18 **tutionally required to be treated in the same manner as a spouse, and**  
19 **is:**

20 “**(a) If the member dies before the earliest retirement date for the**  
21 **member under ORS 238A.165, the actuarial equivalent of 50 percent of**  
22 **the pension that would otherwise have been paid to the deceased**  
23 **member, which shall be calculated as if the member became an inac-**  
24 **tive member on the date of death and retired at the earliest retirement**  
25 **date for the member as described in ORS 238A.165;**

26 “**(b) If the member dies on or after the earliest retirement date for**  
27 **the member under ORS 238A.165 and before normal retirement age**  
28 **under ORS 238A.160, the actuarial equivalent of the pension that would**  
29 **otherwise have been paid to the deceased member, which shall be cal-**  
30 **culated as if the member retired under ORS 238A.185 and as if the**

1 member's retirement date was the first of the month following the  
2 date of death of the member; or

3 “(c) If the member dies on or after reaching normal retirement age  
4 as described in ORS 238A.160, the actuarial equivalent of the pension  
5 that would otherwise have been paid to the deceased member, which  
6 shall be calculated under ORS 238A.125 as if the member's retirement  
7 date was the first of the month following the date of death of the  
8 member.

9 “(3) The death benefit provided under this section is first effective on the  
10 first day of the month following the date of death of the member. The sur-  
11 viving spouse, former spouse or other person entitled to the death benefit  
12 may elect to delay payment of the death benefit, **which shall be actuarially**  
13 **adjusted for age and interest when payments commence**, but payment  
14 must commence no later than December 31 of the calendar year in which the  
15 member would have reached 70-1/2 years of age.

16 “(4) Notwithstanding any other provision of ORS 238A.100 to 238A.250,  
17 distributions of death benefits under the pension program must comply with  
18 the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regu-  
19 lations implementing that section, as in effect on December 31, 2018. The  
20 board shall adopt rules implementing those minimum distribution require-  
21 ments.

22 **“SECTION 12.** ORS 238A.005 is amended to read:

23 “238A.005. For the purposes of this chapter:

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

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

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

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

4       “(a) Persons engaged as independent contractors;

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

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

8       “(d) Persons categorized by a participating public employer as student  
9       employees;

10       “(e) Any person who is in custody in a state institution;

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

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

17       “(h) Employees of a public university listed in ORS 352.002 who are ac-  
18       tively participating in an optional retirement plan offered under ORS 243.815;

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

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

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

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

30       and



1 “(m) Judges.

2 “(5) ‘Firefighter’ means:

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

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

7 “(c) An employee of the State Forestry Department who is certified by the  
8 State Forester as a professional wildland firefighter and whose primary du-  
9 ties include the abatement of uncontrolled fires as described in ORS 477.064;  
10 and

11 “(d) An employee of the Oregon Military Department whose primary du-  
12 ties include fighting structural, aircraft, wildland or other fires.

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

14 “(7)(a) ‘Hour of service’ means:

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

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

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

28 “(8) ‘Inactive member’ means a member of the pension program or the  
29 individual account program of the Oregon Public Service Retirement Plan  
30 whose membership has not been terminated, who is not a retired member and

1 who is not employed in a qualifying position.

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

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

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

12 “(12) ‘Participating public employer’ means a public employer as defined  
13 in ORS 238.005 that provides retirement benefits for employees of the public  
14 employer under the system.

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

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

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

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

25 “(17)(a) ‘Salary’ means the remuneration paid to an active member in re-  
26 turn for services to the participating public employer, including  
27 remuneration in the form of living quarters, board or other items of value,  
28 to the extent the remuneration is, **or would be if the member were an**  
29 **Oregon resident**, includable in the employee’s taxable income under Oregon  
30 law. ‘Salary’ includes the additional amounts specified in paragraph (b) of

1 this subsection, but does not include the amounts specified in paragraph (c)  
2 of this subsection, regardless of whether those amounts are includable in  
3 taxable income.

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

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

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

9 “(C) Any amount that is contributed to a cafeteria plan or qualified  
10 transportation fringe benefit plan by the employer at the election of the  
11 employee and that is not includable in the taxable income of the employee  
12 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2018.

13 “(D) Any amount that is contributed to a cash or deferred arrangement  
14 by the employer at the election of the employee and that is not included in  
15 the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in  
16 effect on December 31, 2018.

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

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

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

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

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

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

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

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

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

3 “(E) Any retirement incentive, retirement bonus or retirement gratuitous  
4 payment.

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

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

13 “(H) The amount of an employee contribution to the individual account  
14 program that is paid by the employer and is not deducted from the compen-  
15 sation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

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

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

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

22 “(L) For years before 2020, any amount in excess of \$200,000 for a calen-  
23 dar year. If any period over which salary is determined is less than 12  
24 months, the \$200,000 limitation for that period shall be multiplied by a frac-  
25 tion, the numerator of which is the number of months in the determination  
26 period and the denominator of which is 12. The board shall adopt rules ad-  
27 justing this dollar limit to incorporate cost-of-living adjustments authorized  
28 by the Internal Revenue Service.

29 “(M) For years beginning on or after January 1, 2020, any amount in ex-  
30 cess of \$195,000 for a calendar year. If any period over which salary is de-

1 terminated is less than 12 months, the \$195,000 limitation for that period shall  
2 be multiplied by a fraction, the numerator of which is the number of months  
3 in the determination period and the denominator of which is 12. On January  
4 1 of each year, the board shall adjust the dollar limit provided by this sub-  
5 paragraph to reflect any percentage changes in the Consumer Price Index for  
6 All Urban Consumers, West Region (All Items), as published by the Bureau  
7 of Labor Statistics of the United States Department of Labor.

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

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

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

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

13 **“SECTION 13.** ORS 353.100 is amended to read:

14 “353.100. (1) The provisions of ORS chapters 35, 190, 192, 244 and 295 and  
15 ORS 30.260 to 30.460, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640,  
16 243.650 to 243.806, 297.040, 307.090 and 307.112 apply to Oregon Health and  
17 Science University under the same terms as they apply to public bodies other  
18 than the state.

19 “(2) Except as otherwise provided by law, the provisions of ORS chapters  
20 182, 183, 240, 270, 273, 276, 279A, 279B, 279C, 283, 291, 292, 293, 294 and 297  
21 and ORS 35.550 to 35.575, 180.060, 180.210 to 180.235, 183.710 to 183.730,  
22 183.745, 183.750, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105, 200.035,  
23 243.105 to 243.585, 243.696, 278.011 to 278.120, 278.315 to 278.415, 279.835 to  
24 279.855, 282.010 to 282.150, 283.085 to 283.092, 357.805 to 357.895 and 656.017  
25 (2) do not apply to the university or any not-for-profit organization or other  
26 entity if the equity of the entity is owned exclusively by the university and  
27 if the organization or entity is created by the university to advance any of  
28 the university’s statutory missions.

29 “(3) The university, as a distinct governmental entity, or any organization  
30 or entity described in subsection (2) of this section is not subject to any

1 provision of law enacted after January 1, 1995, with respect to any govern-  
2 mental entity, unless the provision specifically provides that it applies to the  
3 university or to the organization or entity.

4 **“(4) For purposes of determining the salary, as defined in ORS**  
5 **238A.005 (17), paid between August 29, 2003, and January 1, 2020, to a**  
6 **member of the Public Employees Retirement System, remuneration**  
7 **paid to a member of the system in return for services to the university**  
8 **is deemed includable in the member’s taxable income under Oregon**  
9 **law during a period of continuous employment with the Oregon Health**  
10 **and Science University if:**

11 **“(a) The member was hired in a qualifying position, as defined in**  
12 **ORS 238A.005, by the university on or after August 29, 2003; and**

13 **“(b) The remuneration was, or would have been if the member were**  
14 **an Oregon resident, includable in the member’s taxable income under**  
15 **Oregon law during the period of continuous employment.**

16 **“SECTION 14. ORS 338.135 is amended to read:**

17 **“338.135. (1) Employee assignment to a public charter school shall be**  
18 **voluntary.**

19 **“(2)(a) A public charter school or the sponsor of the public charter school**  
20 **is considered the employer of any employees of the public charter school. If**  
21 **a school district board is not the sponsor of the public charter school, the**  
22 **school district board may not be the employer of the employees of the public**  
23 **charter school and the school district board may not collectively bargain**  
24 **with the employees of the public charter school. The public charter school**  
25 **governing body shall control the selection of employees at the public charter**  
26 **school.**

27 **“(b) If a virtual public charter school or the sponsor of a virtual public**  
28 **charter school contracts with a for-profit entity to provide educational ser-**  
29 **vices through the virtual public charter school, the for-profit entity may not**  
30 **be the employer of any employees of the virtual public charter school unless:**

1 “(A) The employee is an administrator who does not have any teaching  
2 responsibilities; and

3 “(B) Both the executive officer of the sponsor and the public charter  
4 school governing body approve employment by the for-profit entity. The  
5 executive officer or governing body may choose to grant approval under this  
6 subparagraph:

7 “(i) For all employees of the for-profit entity who meet the description in  
8 subparagraph (A) of this paragraph;

9 “(ii) Based on the job categories of the employees who meet the de-  
10 scription in subparagraph (A) of this paragraph; or

11 “(iii) On a case-by-case basis for each employee who meets the description  
12 in subparagraph (A) of this paragraph.

13 “(3) The school district board of the school district within which the  
14 public charter school is located shall grant a leave of absence to any em-  
15 ployee who chooses to work in the public charter school. The length and  
16 terms of the leave of absence shall be set by negotiated agreement or by  
17 board policy. However, the length of the leave of absence may not be less  
18 than two years unless:

19 “(a) The charter of the public charter school is terminated or the public  
20 charter school is dissolved or closed during the leave of absence; or

21 “(b) The employee and the school district board have mutually agreed to  
22 a different length of time.

23 “(4) An employee of a public charter school operating within a school  
24 district who is granted a leave of absence from the school district and re-  
25 turns to employment with the school district shall retain seniority and ben-  
26 efits as an employee pursuant to the terms of the leave of absence.  
27 Notwithstanding ORS 243.650 to 243.806, a school district that was the em-  
28 ployer of an employee of a public charter school not operating within the  
29 school district may make provisions for the return of the employee to em-  
30 ployment with the school district.

1       “(5)(a) For purposes of ORS chapters 238 and 238A, a public charter  
2 school shall be considered a public employer and as such shall participate  
3 in the Public Employees Retirement System.

4       **“(b) For purposes of determining the salary paid between August  
5 29, 2003, and January 1, 2020, to a member of the Public Employees  
6 Retirement System under ORS 238A.005 (17), remuneration paid to a  
7 member in return for services to a public charter school is deemed  
8 includable in the member’s taxable income under Oregon law during  
9 a period of continuous employment with any public charter school if:**

10       **“(A) The member was hired in a qualifying position by any public  
11 charter school on or after August 29, 2003;**

12       **“(B) The remuneration was, or would have been if the member were  
13 an Oregon resident, includable in the member’s taxable income under  
14 Oregon law during the period of continuous employment; and**

15       **“(C) The member resided and performed services in the United  
16 States during the period of continuous employment.**

17       **“(c) As used in this subsection, ‘continuous employment’ means  
18 employment with a public charter school that is not interrupted by a  
19 period of more than 30 consecutive calendar days.**

20       “(6) For teacher licensing, employment experience in public charter  
21 schools shall be considered equivalent to experience in public schools.

22       “(7)(a) Any person employed as an administrator in a public charter  
23 school shall be licensed or registered to administer by the Teacher Standards  
24 and Practices Commission.

25       “(b) Any person employed as a teacher in a public charter school shall  
26 be licensed or registered to teach by the commission.

27       “(c) Notwithstanding paragraph (a) or (b) of this subsection, at least  
28 one-half of the total full-time equivalent (FTE) teaching and administrative  
29 staff at the public charter school shall be licensed by the commission pur-  
30 suant to ORS 342.125.



1 “(8) Notwithstanding ORS 243.650, a public charter school shall be con-  
2 sidered a school district for purposes of ORS 243.650 to 243.806. An employee  
3 of a public charter school may be a member of a labor organization or or-  
4 ganize with other employees to bargain collectively. Bargaining units at the  
5 public charter school may be separate from other bargaining units of the  
6 sponsor or of the school district in which the public charter school is lo-  
7 cated. Employees of a public charter school may be part of the bargaining  
8 units of the sponsor or of the school district in which the public charter  
9 school is located.

10 “(9) An entity described in ORS 338.005 (4) may not waive the right to  
11 sponsor a public charter school in a collective bargaining agreement.

12 **“SECTION 15. The amendments to ORS 238.082 and sections 35 and**  
13 **37, chapter 355, Oregon Laws 2019, by sections 1 to 3 of this 2021 Act**  
14 **apply to determinations made under ORS 238.082 and sections 35 and**  
15 **37, chapter 355, Oregon Laws 2019, on or after the effective date of this**  
16 **2021 Act for all service performed by a retired member employed by a**  
17 **participating public employer, whether performed before, on or after**  
18 **the effective date of this 2021 Act.**

19 **“SECTION 16. The amendments to ORS 238A.005 by section 12 of**  
20 **this 2021 Act apply to remuneration paid to an active member of the**  
21 **Public Employees Retirement System on or after January 1, 2020.”.**

22