

Enrolled House Bill 4045

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Emergency Management, General Government, and Veterans for Representative Zach Hudson)

CHAPTER

AN ACT

Relating to adjustments in classifications under the Public Employees Retirement System; creating new provisions; amending ORS 238.005, 238A.005, 238A.125, 238A.134, 238A.160, 238A.220, 238A.240, 338.135, 352.138 and 353.100.

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

SECTION 1. ORS 238.005 is amended to read:

238.005. For purposes of this chapter:

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

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

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

(4) "Calendar year" means 12 calendar months commencing on January 1 and ending on December 31 following.

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

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

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

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

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

(8) "Employee" means a person who performs services for a participating public employer, including persons considered employees of a participating public employer under 26 U.S.C. 3121(d)(2), as in effect on December 31, 2019, and public officers. "Employee" does not include:

(a) Persons engaged as independent contractors.

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

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

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

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

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

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

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

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

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

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

(b) An employee of the State Fire Marshal whose primary duties include fire investigation, fire prevention, fire safety, fire control or fire suppression;

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

(d) An employee of the Oregon Military Department whose primary duties include fighting structural, aircraft, wildland or other fires.

(11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 following.

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

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

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

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

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

(17) "Normal retirement age" means:

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

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

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

(19) "Police officer" includes:

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

(b) Employees of the Department of State Police who are classified as police officers, **forensic scientists or evidence technicians** by the Superintendent of State Police.

(c) Employees of the Oregon Liquor and Cannabis Commission who are classified as regulatory specialists by the administrator of the commission.

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

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

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

(g) Parole and probation officers employed by the Department of Corrections, parole and probation officers who are transferred to county employment under ORS 423.549 and adult parole and probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes of this chapter by the county governing body. If a county classifies adult parole and probation officers as police officers for the purposes of this chapter, and the employees so classified are represented by a labor organization, any proposal by the county to change that classification or to cease to classify adult parole and probation officers as police officers for the purposes of this chapter is a mandatory subject of bargaining.

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

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

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

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

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

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

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

(o) The Director of the Department of Corrections.

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

(q) An employee of the Department of Corrections classified as a police officer on or prior to July 27, 1989, whether or not that classification was authorized by law, as long as the employee

remains in the position held on July 27, 1989. The initial classification of an employee under a system implemented pursuant to ORS 240.190 does not affect police officer status.

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

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

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

(u) Employees of the Oregon Youth Authority who are classified as juvenile parole and probation officers.

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

(w) Employees appointed as judicial marshals under ORS 1.177 who are certified under ORS 181A.540.

(x) Certified parole and probation officers employed by the State Board of Parole and Post-Prison Supervision.

(y) **District attorneys and** deputy district attorneys.

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

(21) "Public employer" means the state, one of its agencies or any city, county, municipal or public corporation, political subdivision of the state or instrumentality thereof, or an agency created by one or more such governmental organizations to provide governmental services. For purposes of this chapter, such agency created by one or more governmental organizations is a governmental instrumentality and a legal entity with power to enter into contracts, hold property and sue and be sued.

(22) "Qualifying position" means one or more jobs with one or more participating public employers in which an employee performs 600 or more hours of service in a full calendar year, or would perform 600 or more hours of service if the employee were employed for the full calendar year, excluding any service in a job for which a participating public employer does not provide benefits under this chapter pursuant to an application made under ORS 238.035.

(23) "Regular account" means the account established for each active and inactive member under ORS 238.250.

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

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

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

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

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

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

(C) Retroactive payments described in ORS 238.008;

(D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS 652.190; and

(E) The full amount of required employee contributions under ORS 238A.330 that are paid by the employer on behalf of its employees under ORS 238A.335 (2)(b), solely for the purpose of computing a member's final average salary, and not for any other purpose.

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

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

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

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

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

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

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

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

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

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

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

(K) Compensation described and authorized under ORS 352.232 that is not paid by the public university employing the officer or employee;

(L) Compensation described and authorized under ORS 353.270 that is not paid by Oregon Health and Science University; or

(M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a calendar year. If any period over which salary is determined is less than 12 months, the \$195,000 limitation for that period shall be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12. On January 1 of each year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

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

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

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

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

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

SECTION 2. ORS 238A.005 is amended to read:

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

(1) "Active member" means a member of the pension program or the individual account program of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

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

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

(4) “Eligible employee” means a person who performs services for a participating public employer, including persons considered employees of a participating public employer under 26 U.S.C. 3121(d)(2), as in effect on January 1, 2023, and elected officials other than judges. “Eligible employee” does not include:

- (a) Persons engaged as independent contractors;
- (b) Aliens working under a training or educational visa;
- (c) Persons provided sheltered employment or make-work by a public employer;
- (d) Persons categorized by a participating public employer as student employees;
- (e) Any person who is in custody in a state institution;
- (f) Employees of foreign trade offices of the Oregon Business Development Department who live and perform services in foreign countries under the provisions of ORS 285A.075 (1)(g);
- (g) An employee actively participating in an alternative retirement program established under ORS 353.250 or an optional retirement plan established under ORS 341.551;
- (h) Employees of a public university listed in ORS 352.002 who are actively participating in an optional retirement plan offered under ORS 243.815;
- (i) Persons employed in positions classified as post-doctoral scholar positions by a public university listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370;
- (j) Any employee who belongs to a class of employees that was not eligible on August 28, 2003, for membership in the system under the provisions of ORS chapter 238 or other law;
- (k) Any person who belongs to a class of employees who are not eligible to become members of the Oregon Public Service Retirement Plan under the provisions of ORS 238A.070 (2);
- (L) Any person who is retired under ORS 238A.100 to 238A.250 or ORS chapter 238 and who continues to receive retirement benefits while employed; and
- (m) Judges.

(5) “Firefighter” means:

- (a) A person employed by a local government, as defined in ORS 174.116, whose primary job duties include the fighting of fires;
- (b) The State Fire Marshal, chief deputy state fire marshals and deputy state fire marshals;
- (c) An employee of the State Fire Marshal whose primary duties include fire investigation, fire prevention, fire safety, fire control or fire suppression;
- (d) An employee of the State Forestry Department who is certified by the State Forester as a professional wildland firefighter and whose primary duties include the abatement of uncontrolled fires as described in ORS 477.064; and
- (e) An employee of the Oregon Military Department whose primary duties include fighting structural, aircraft, wildland or other fires.

(6) “Fund” means the Public Employees Retirement Fund.

(7)(a) “Hazardous position” means a position that does not meet the definition of a qualified public safety employee under section 72(t)(10)(B) of the Internal Revenue Code, but that:

(A) Requires the person holding the position to work with or manage emergency or traumatic events in the regular course of work; or

(B) Carries a high risk of physical harm.

(b) “Hazardous position” includes and is limited to:

(A) Employees of the Oregon State Hospital who have direct contact with patients; and

(B) Telecommunicators, as defined in ORS 181A.355.

[(7)(a)] (8)(a) “Hour of service” means:

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

(B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave during which an employee does not perform duties but for which the employee is directly or indirectly paid or entitled to payment by a participating public employer for services in a qualifying position, as long as the hour is within the number of hours regularly scheduled for the performance

of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave.

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

[(8)] (9) "Inactive member" means a member of the pension program or the individual account program of the Oregon Public Service Retirement Plan whose membership has not been terminated, who is not a retired member and who is not employed in a qualifying position.

[(9)] (10) "Individual account program" means the defined contribution individual account program of the Oregon Public Service Retirement Plan established under ORS 238A.025.

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

[(11)] (12) "Member" means an eligible employee who has established membership in the pension program or the individual account program of the Oregon Public Service Retirement Plan and whose membership has not been terminated under ORS 238A.110 or 238A.310.

[(12)] (13) "Participating public employer" means a public employer as defined in ORS 238.005 that provides retirement benefits for employees of the public employer under the system.

[(13)] (14) "Pension program" means the defined benefit pension program of the Oregon Public Service Retirement Plan established under ORS 238A.025.

[(14)] (15) "Police officer" means a police officer as described in ORS 238.005.

[(15)] (16) "Qualifying position" means one or more jobs with one or more participating public employers in which an eligible employee performs 600 or more hours of service in a full calendar year, or would perform 600 or more hours of service if the employee were employed for the full calendar year, excluding any service in a job for which benefits are not provided under the Oregon Public Service Retirement Plan pursuant to ORS 238A.070 (2).

[(16)] (17) "Retired member" means a pension program member who is receiving a pension as provided in ORS 238A.180 to 238A.195.

[(17)(a)] (18)(a) "Salary" means the remuneration paid to an active member in return for services to the participating public employer, including remuneration in the form of living quarters, board or other items of value, to the extent the remuneration is, or would be if the member were an Oregon resident, includable in the employee's taxable income under Oregon law. "Salary" includes the additional amounts specified in paragraph (b) of this subsection, but does not include the amounts specified in paragraph (c) of this subsection, regardless of whether those amounts are includable in taxable income.

(b) "Salary" includes the following amounts:

(A) Payments of employee and employer money into a deferred compensation plan that are made at the election of the employee.

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

(C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit plan by the employer at the election of the employee and that is not includable in the taxable income of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2022.

(D) Any amount that is contributed to a cash or deferred arrangement by the employer at the election of the employee and that is not included in the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in effect on December 31, 2022.

(E) Retroactive payments described in ORS 238.008.

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

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

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

(c) "Salary" does not include the following amounts:

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

(B) Payments made on account of an employee's death.

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

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

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

(F) Payment for a leave of absence after the date the employer and employee have agreed that no future services in a qualifying position will be performed.

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

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

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

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

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

(L) For years before 2020, any amount in excess of \$200,000 for a calendar year. If any period over which salary is determined is less than 12 months, the \$200,000 limitation for that period shall be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12. The board shall adopt rules adjusting this dollar limit to incorporate cost-of-living adjustments authorized by the Internal Revenue Service.

(M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a calendar year. If any period over which salary is determined is less than 12 months, the \$195,000 limitation for that period shall be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12. On January 1 of each year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

[(18)] (19) "System" means the Public Employees Retirement System.

[(19)] (20) "Workers' compensation benefits" means:

(a) Payments made under ORS chapter 656; or

(b) Payments provided in lieu of workers' compensation benefits under ORS 656.027 (6).

SECTION 3. ORS 238A.125 is amended to read:

238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall be paid an annual pension for the life of the member as follows:

(a) For service as a police officer or firefighter, 1.8 percent of final average salary multiplied by the number of years of retirement credit attributable to service as a police officer or firefighter.

(b) For service in a hazardous position, 1.8 percent of final average salary multiplied by the number of years of retirement credit attributable to service in a hazardous position.

[(b)] (c) For service as other than a police officer or firefighter **or in a hazardous position**, 1.5 percent of final average salary multiplied by the number of years of retirement credit attributable to service as other than a police officer or firefighter **or in a hazardous position**.

(2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the annual benefit payable to a member under the pension program and under any other tax-qualified defined benefit plan main-

tained by the participating public employer may not exceed the applicable limitations set forth in 26 U.S.C. 415(b), as in effect on December 31, 2022. The Public Employees Retirement Board shall adopt rules for the administration of this limitation, including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

(3) The board shall make no actuarial adjustment in a member's pension calculated under this section by reason of the member's retirement after normal retirement age.

SECTION 4. ORS 238A.160 is amended to read:

238A.160. (1) Except as provided in subsections (2) and (3) of this section, normal retirement age for a member of the pension program is the earlier of:

(a) 65 years of age; or

(b) 58 years of age if the member has 30 years or more of retirement credit.

(2)(a) Normal retirement age for a member of the pension program who retires from service as a police officer or firefighter, and whose last 60 months of retirement credit preceding retirement eligibility under this section is classified as retirement credit for service as a police officer or a firefighter, is the earlier of:

(A) [60] 55 years of age; or

(B) 53 years of age if the member has 25 years or more of retirement credit.

(b) A member who establishes retirement eligibility under this subsection retains retirement eligibility as a police officer or firefighter, even if the member performs service thereafter only as other than a police officer or firefighter.

(c) A period of leave from a position as a police officer or firefighter for which a member is entitled to retirement credit for service as a police officer or firefighter and which is part of the member's last 60 months of retirement credit preceding retirement eligibility under this section shall be counted as part of the last 60 months of retirement credit required for retirement eligibility under this section.

(d) Retirement credit for a month in which a member performs service as both a police officer or firefighter and as other than a police officer or firefighter shall be classified as retirement credit for service as a police officer or firefighter for purposes of this section.

(e) A member employed as a police officer or firefighter is not required to restart the last 60 months of retirement credit required for retirement eligibility under this section when the member:

(A) Is on unpaid leave from the member's position as a police officer or firefighter and is receiving insurance payments for short-term or long-term disability for which retirement credit is not available under ORS 238A.155; and

(B) Is concurrently employed and performing service as other than a police officer or firefighter.

(3) Normal retirement age for a member of the pension program who retires from service as a school employee as defined by ORS 238A.140 is the earlier of:

(a) 65 years of age; or

(b) 58 years of age if the member has been an active member in 30 or more calendar years.

(4) The normal retirement date of a member is the first day of the month beginning on or after the date the member reaches normal retirement age.

SECTION 5. ORS 238A.160, as amended by section 4 of this 2024 Act, is amended to read:

238A.160. (1) Except as provided in subsections (2) [and (3)] **to (4)** of this section, normal retirement age for a member of the pension program is the earlier of:

(a) 65 years of age; or

(b) 58 years of age if the member has 30 years or more of retirement credit.

(2)(a) Normal retirement age for a member of the pension program who retires from service as a police officer or firefighter, and whose last 60 months of retirement credit preceding retirement eligibility under this section is classified as retirement credit for service as a police officer or a firefighter, is the earlier of:

(A) 55 years of age; or

(B) 53 years of age if the member has 25 years or more of retirement credit.

(b) A member who establishes retirement eligibility under this subsection retains retirement eligibility as a police officer or firefighter, even if the member performs service thereafter only as other than a police officer or firefighter.

(c) A period of leave from a position as a police officer or firefighter for which a member is entitled to retirement credit for service as a police officer or firefighter and which is part of the member's last 60 months of retirement credit preceding retirement eligibility under this section shall be counted as part of the last 60 months of retirement credit required for retirement eligibility under this section.

(d) Retirement credit for a month in which a member performs service as both a police officer or firefighter and as other than a police officer or firefighter shall be classified as retirement credit for service as a police officer or firefighter for purposes of this section.

(e) A member employed as a police officer or firefighter is not required to restart the last 60 months of retirement credit required for retirement eligibility under this section when the member:

(A) Is on unpaid leave from the member's position as a police officer or firefighter and is receiving insurance payments for short-term or long-term disability for which retirement credit is not available under ORS 238A.155; and

(B) Is concurrently employed and performing service as other than a police officer or firefighter.

(3)(a) Normal retirement age for a member of the pension program who retires from service as a person in a hazardous position, and whose last 60 months of retirement credit preceding retirement eligibility under this section is classified as retirement credit for service in a hazardous position, is the earlier of:

(A) 60 years of age; or

(B) 58 years of age if the member has 25 or more years of retirement credit.

(b) A member who establishes retirement eligibility under this subsection retains retirement eligibility as a person serving in a hazardous position, even if the member performs service thereafter only in other than a hazardous position.

(c) A period of leave from a hazardous position for which a member is entitled to retirement credit for service in a hazardous position and which is part of the member's last 60 months of retirement credit preceding retirement eligibility under this section shall be counted as part of the last 60 months of retirement credit required for retirement eligibility under this section.

(d) Retirement credit for a month in which a member performs service both in a hazardous position and in other than a hazardous position shall be classified as retirement credit for service in a hazardous position for purposes of this section.

(e) A member employed in a hazardous position is not required to restart the last 60 months of retirement credit required for retirement eligibility under this section when the member:

(A) Is on unpaid leave from the member's hazardous position and is receiving insurance payments for short-term or long-term disability for which retirement credit is not available under ORS 238A.155; and

(B) Is concurrently employed and performing service in other than a hazardous position.

[(3)] (4) Normal retirement age for a member of the pension program who retires from service as a school employee as defined by ORS 238A.140 is the earlier of:

(a) 65 years of age; or

(b) 58 years of age if the member has been an active member in 30 or more calendar years.

[(4)] (5) The normal retirement date of a member is the first day of the month beginning on or after the date the member reaches normal retirement age.

SECTION 6. ORS 238A.220 is amended to read:

238A.220. (1) A participating public employer shall make employer contributions to the Public Employees Retirement Board at intervals designated by the board in the amounts determined by the board under ORS 238.225. All participating public employers shall be considered to be a single em-

ployer for the purposes of the employer contributions under ORS 238.225 that are required for funding the pension program established under ORS 238A.025.

(2) For the purpose of the actuarial computation required under ORS 238.225, the board shall separately establish the liability of participating public employers for police officers and firefighters under the pension program and shall require that public employers that employ police officers and firefighters who are members of the pension program make contributions for those employees based on the liability established under this subsection.

(3) For the purpose of the actuarial computation required under ORS 238.225, the board shall separately establish the liability of participating public employers for members in hazardous positions under the pension program and shall require that public employers that employ members in hazardous positions who are members of the pension program make contributions for those employees based on the liability established under this subsection.

SECTION 7. ORS 238A.240 is amended to read:

238A.240. (1) A participating public employer shall contribute to the pension program, at intervals designated by the Public Employees Retirement Board, all amounts determined by the board to be actuarially necessary to adequately fund the disability benefits to be provided under ORS 238A.235 and the reasonable costs of administering the provision of those benefits. The board shall periodically determine the liabilities attributable to the disability benefits and shall set the amount of contributions to be made by participating public employers, and by other public employers who are required to make contributions on behalf of members, to ensure that those liabilities will be funded no more than 40 years after the date on which the determination is made. All participating public employers shall be considered to be a single employer for the purposes of the contributions required under this section.

(2) For the purpose of the actuarial computation required under subsection (1) of this section, the board shall separately establish the liability of participating public employers for police officers and firefighters, and shall require that public employers that employ police officers and firefighters make contributions for those employees based on the liability established under this section.

(3) For the purpose of the actuarial computation required under subsection (1) of this section, the board shall separately establish the liability of participating public employers for members in hazardous positions, and shall require that public employers that employ members in hazardous positions make contributions for those employees based on the liability established under this section.

SECTION 8. ORS 238A.134 is amended to read:

238A.134. For purposes of determining the salary, as defined in ORS 238A.005 [(17)] (18), of an active member of the Public Employees Retirement System, a housing allowance paid to a member in return for services as a prison chaplain shall be treated as if it were includable in the member's taxable income under Oregon law.

SECTION 9. ORS 338.135 is amended to read:

338.135. (1) Employee assignment to a public charter school shall be voluntary.

(2)(a) A public charter school or the sponsor of the public charter school is considered the employer of any employees of the public charter school. If a school district board is not the sponsor of the public charter school, the school district board may not be the employer of the employees of the public charter school and the school district board may not collectively bargain with the employees of the public charter school. The public charter school governing body shall control the selection of employees at the public charter school.

(b) If a virtual public charter school or the sponsor of a virtual public charter school contracts with a for-profit entity to provide educational services through the virtual public charter school, the for-profit entity may not be the employer of any employees of the virtual public charter school unless:

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

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

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

(ii) Based on the job categories of the employees who meet the description in subparagraph (A) of this paragraph; or

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

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

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

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

(4) An employee of a public charter school operating within a school district who is granted a leave of absence from the school district and returns to employment with the school district shall retain seniority and benefits as an employee pursuant to the terms of the leave of absence. Notwithstanding ORS 243.650 to 243.809, a school district that was the employer of an employee of a public charter school not operating within the school district may make provisions for the return of the employee to employment with the school district.

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

(b) For purposes of determining the salary paid to an active member of the Public Employees Retirement System under ORS 238A.005 [(17)] **(18)** during the period between August 29, 2003, and January 1, 2020, remuneration paid to a member in return for services to a public charter school is deemed includable in the member's taxable income under Oregon law during a period of continuous employment with any public charter school if:

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

(B) The member was informed in writing by the public charter school during the period of continuous employment that the member was eligible to participate in the Public Employees Retirement System and the public charter school made contributions to the system on the member's behalf;

(C) The remuneration was, or would have been if the member were an Oregon resident, includable in the member's taxable income under Oregon law during the period of continuous employment; and

(D) The member resided and performed services in the United States during the period of continuous employment.

(c) As used in this subsection, "continuous employment" means employment with a public charter school that is not interrupted by a period of more than 30 consecutive calendar days.

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

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

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

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

(8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district for purposes of ORS 243.650 to 243.809. An employee of a public charter school may be a member of a labor organization or organize with other employees to bargain collectively. Bargaining units at the public charter school may be separate from other bargaining units of the sponsor or of the school district in which the public charter school is located. Employees of a public charter school may be part of the bargaining units of the sponsor or of the school district in which the public charter school is located.

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

SECTION 10. ORS 352.138 is amended to read:

352.138. (1) The following entities are not subject to any provision of law enacted after January 1, 2013, that is unique to governmental entities unless the following entities are expressly named:

(a) A public university listed in ORS 352.002; and

(b) Any not-for-profit organization or other entity if the equity of the entity is owned or controlled exclusively by a public university and if the organization or entity is created by the university to advance any of the university's statutory missions.

(2) Notwithstanding subsection (1) of this section and ORS 352.033, the provisions of ORS 30.260 to 30.460, 33.710, 33.720, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 279.835, 279.840, 279.850 and 297.040 and ORS chapters 35, 190, 192 and 244 apply to a public university listed in ORS 352.002 under the same terms as they apply to public bodies other than the state.

(3) Except as otherwise provided by law, the provisions of ORS 35.550 to 35.575, 180.060, 180.210 to 180.235, 184.305 to 184.345, 190.480, 190.490, 200.035, 243.696, 357.805 to 357.895 and 656.017 (2) and ORS chapters 182, 183, 240, 270, 273, 276, 278, 279A, 279B, 279C, 282, 283, 291, 292, 293, 294, 295 and 297 do not apply to a public university listed in ORS 352.002.

(4)(a) Notwithstanding subsections (1) and (3) of this section and ORS 352.033, ORS 240.167, 279C.600 to 279C.625, 279C.800, 279C.810, 279C.825, 279C.827, 279C.830, 279C.835, 279C.836, 279C.838, 279C.840, 279C.845, 279C.850, 279C.855, 279C.860, 279C.865, 279C.870 and 292.043 apply to a public university listed in ORS 352.002 under the same terms as they apply to public bodies other than the state.

(b) Notwithstanding subsections (1) and (3) of this section, ORS 279C.800 to 279C.870 apply to an agreement under the terms of which a private entity constructs, reconstructs, renovates or paints an improvement on real property owned by a public university listed in ORS 352.002 or by a not-for-profit organization or other entity that a public university owns or controls exclusively.

(5) Notwithstanding subsection (2) of this section, ORS 190.430 and 192.105 do not apply to a public university listed in ORS 352.002 or any organization or other entity described in subsection (1) of this section.

(6)(a) Notwithstanding ORS 352.033, except as set forth in subsection (3) of this section, ORS 243.650 to 243.809 and 276.073 to 276.090 and ORS chapters 238 and 238A apply to a public university listed in ORS 352.002 under the same terms as they apply to the state.

(b) For purposes of determining the salary of an active member of the Public Employees Retirement System under ORS 238A.005 [(17)] (18), remuneration paid to a member in return for services to a public university listed in ORS 352.002 is deemed includable in the member's taxable income under Oregon law during a period of continuous employment with any public university listed in ORS 352.002 if:

(A) The member was hired in a qualifying position by a public university listed in ORS 352.002 on or after August 29, 2003, and on or before December 31, 2016; and

(B) The member resided and performed services in the United States during the period of continuous employment.

(7) ORS 350.285, 350.290, 352.198, 352.226, 352.232, 352.293, 352.296, 352.303, 352.309 and 352.313 apply to a public university listed in ORS 352.002.

(8) Notwithstanding ORS 352.033, a public university listed in ORS 352.002 and its agents and employees remain subject to all statutes and administrative rules of this state that create rights,

benefits or protections in favor of military veterans, service members and families of service members to the same extent as an agency of this state would be subject to such statutes and administrative rules.

(9) Notwithstanding ORS 352.033, ORS 350.540, 350.545 and 350.550 apply to a public university listed in ORS 352.002. A public university may not issue a tax credit certificate under ORS 350.540, 350.545 and 350.550 that will cause the General Fund to be owed more than \$8.4 million at any one time under ORS 350.540, 350.545 and 350.550.

(10) If state bonds are issued for the benefit of a public university listed in ORS 352.002 under Article XI-Q of the Oregon Constitution:

(a) The Higher Education Coordinating Commission shall have the powers and duties of a project agency, as defined in ORS 286A.816, to the extent necessary for the issuance of the state bonds and the administration of the proceeds of the state bonds; and

(b) The university and the Higher Education Coordinating Commission shall enter into grant contracts or loan agreements that comply with rules adopted by the Oregon Department of Administrative Services relating to:

(A) Disbursement of project funds by a project agency through grant contracts or loan agreements;

(B) Submission of a request for project funds to the commission under ORS 350.095; and

(C) Any other matters determined by the Oregon Department of Administrative Services to be necessary for the administration of the Article XI-Q bond program.

(11) Nothing in this section may be construed so that statutory provisions that are not set forth in this section apply to a public university listed in ORS 352.002.

SECTION 11. ORS 353.100 is amended to read:

353.100. (1) The provisions of ORS chapters 35, 190, 192, 244 and 295 and ORS 30.260 to 30.460, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 243.650 to 243.809, 297.040, 307.090 and 307.112 apply to Oregon Health and Science University under the same terms as they apply to public bodies other than the state.

(2) Except as otherwise provided by law, the provisions of ORS chapters 182, 183, 240, 270, 273, 276, 279A, 279B, 279C, 283, 291, 292, 293, 294 and 297 and ORS 35.550 to 35.575, 180.060, 180.210 to 180.235, 183.710 to 183.730, 183.745, 183.750, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105, 200.035, 243.105 to 243.585, 243.696, 243.853 to 243.855, 278.011 to 278.120, 278.315 to 278.415, 279.835 to 279.855, 282.010 to 282.150, 283.085 to 283.092, 357.805 to 357.895 and 656.017 (2) do not apply to the university or any not-for-profit organization or other entity if the equity of the entity is owned exclusively by the university and if the organization or entity is created by the university to advance any of the university's statutory missions.

(3) The university, as a distinct governmental entity, or any organization or entity described in subsection (2) of this section is not subject to any provision of law enacted after January 1, 1995, with respect to any governmental entity, unless the provision specifically provides that it applies to the university or to the organization or entity.

(4) For purposes of determining the salary, as defined in ORS 238A.005 [(17)] (18), paid between August 29, 2003, and January 1, 2020, to a member of the Public Employees Retirement System, remuneration paid to a member of the system in return for services to the university is deemed includable in the member's taxable income under Oregon law during a period of continuous employment with the Oregon Health and Science University if:

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

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

SECTION 12. The Public Employees Retirement Board shall study the likely liability of participating public employers for members in hazardous positions, as defined in ORS 238A.005, as amended by section 2 of this 2024 Act. The board shall submit a report in the

manner provided by ORS 192.245, and shall include recommendations for implementation of benefits for members working in hazardous positions, to the interim committees of the Legislative Assembly related to public employee retirement no later than September 15, 2028.

SECTION 13. (1) Section 12 of this 2024 Act becomes operative on July 1, 2027.

(2) Section 12 of this 2024 Act is repealed on January 2, 2030.

SECTION 14. The Public Employees Retirement Board shall report at each odd-numbered year regular session, in writing or in person, to a committee of the Legislative Assembly related to public employee retirement on progress toward implementing the amendments to ORS 238A.005, 238A.125, 238A.134, 238A.160, 238A.220, 238A.240, 338.135, 352.138 and 353.100 by sections 2, 3 and 5 to 11 of this 2024 Act. The report must include the impact of any delays occurring as a result of other ongoing projects of the board.

SECTION 15. Section 14 of this 2024 Act is repealed on January 2, 2030.

SECTION 16. (1) The amendments to ORS 238.005 by section 1 of this 2024 Act apply only to a person who:

(a) Is employed as a district attorney, or as a forensic scientist or evidence technician by the Department of State Police, on the effective date of this 2024 Act; or

(b) Becomes employed as a district attorney, or as a forensic scientist or evidence technician by the Department of State Police, after the effective date of this 2024 Act.

(2) A person who is employed as a district attorney, or as a forensic scientist or evidence technician by the Department of State Police, on or after the effective date of this 2024 Act is entitled to service under the Public Employees Retirement System as a police officer only for service performed as a district attorney, or as a forensic scientist or evidence technician for the Department of State Police, on or after the effective date of this 2024 Act.

SECTION 17. The amendments to ORS 238A.160 by section 4 of this 2024 Act apply to members of the Oregon Public Service Retirement Plan whose effective date of retirement is on or after the effective date of this 2024 Act.

SECTION 18. (1) The amendments to ORS 238A.005, 238A.125, 238A.134, 238A.160, 238A.220, 238A.240, 338.135, 352.138 and 353.100 by sections 2, 3 and 5 to 11 of this 2024 Act become operative on January 1, 2030.

(2) The amendments to ORS 238A.125 by section 3 of this 2024 Act apply only to service in a hazardous position performed on or after the operative date specified in subsection (1) of this section.

(3) A member is of normal retirement age for purposes of ORS 238A.160 (3), as amended by section 5 of this 2024 Act, if the member, on or after the operative date specified in subsection (1) of this section:

(a) Meets the age or age and retirement credit requirements of ORS 238A.160 (3);

(b) Was last employed in a qualifying position that is a hazardous position; and

(c) Has accrued their last 60 months of retirement credit in one or more positions that qualify or would qualify as hazardous positions, as defined in ORS 238A.005, as amended by section 2 of this 2024 Act.

(4) Any member who would have established retirement eligibility under ORS 238A.160 (3), had the amendments to ORS 238A.160 (3) by section 5 of this 2024 Act become operative on January 1, 2019, is eligible to retire under ORS 238A.130 (3) on and after January 1, 2030. Service before January 1, 2019, may not be used to establish retirement eligibility under this subsection.

(5) The Public Employees Retirement Board may take any action before the operative date specified in subsection (1) of this section to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by the amendments to ORS 238A.005, 238A.125, 238A.134, 238A.160, 238A.220, 238A.240, 338.135, 352.138 and 353.100 by sections 2, 3 and 5 to 11 of this 2024 Act.

SECTION 19. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (1), chapter 457, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Public Employees Retirement System, for the Central Administration Division, is increased by \$316,153, for the implementation of the amendments to ORS 238.005 and 238A.160 by sections 1 and 4 of this 2024 Act.

SECTION 20. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (3), chapter 457, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Public Employees Retirement System, for the Information Services Division, is increased by \$540,624, for the implementation of the amendments to ORS 238.005 and 238A.160 by sections 1 and 4 of this 2024 Act.

SECTION 21. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (4), chapter 457, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Public Employees Retirement System, for the Operations Division, is increased by \$1,180,755, for the implementation of the amendments to ORS 238.005 and 238A.160 by sections 1 and 4 of this 2024 Act.

Passed by House March 4, 2024

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate March 5, 2024

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2024

Approved:

.....M.,....., 2024

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2024

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LaVonne Griffin-Valade, Secretary of State