

Senate Bill 913

Sponsored by Senator KNOPP

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies provisions relating to Public Employees Retirement System.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to public employee retirement; creating new provisions; amending ORS 238.005, 238.105, 238.115, 238.265, 238.350, 238.435, 238.607, 238A.110, 238A.120, 238A.130, 238A.160, 238A.165, 238A.320, 238A.330, 238A.340, 238A.375, 238A.410, 243.800 and 341.551; and declaring an emergency.

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

ASSUMED INTEREST RATE

SECTION 1. ORS 238.607 is amended to read:

238.607. (1) **As often as is necessary to maintain actuarial equivalency, and no less than once every two calendar years, the Public Employees Retirement Board shall adopt actuarial equivalency factor tables for the purpose of computing the payments to be made to members and their beneficiaries, alternate payees and judge members and their spouses and beneficiaries. The tables may be adopted in conjunction with the system evaluation required by ORS 238.605. Tables adopted under this section must use the best actuarial information on mortality available at the time the board adopts the tables, as provided by the actuary engaged by the board. **The assumed interest rate used for tables adopted under this section must be the lesser of the assumed interest rate for the system determined by the board or the current rate, at the time of adoption, for valuing annuity benefits as published from time to time by the federal Pension Benefit Guaranty Corporation.**** Actuarial equivalency factor tables adopted under this section become effective on January 1 of the calendar year following adoption of the tables by the board **or on another date specified by the board.** All computations of payments must use the actuarial equivalency factor tables that are in effect on:

- (a) The effective date of retirement for any member, judge member or alternate payee;
- (b) The date that the first payment is due for any death beneficiary; or
- (c) The date that the first payment is due for any recalculation of payments that is not attributable to error, including but not limited to recalculations under ORS 238.465 (2).

(2) The board may not defer or delay implementation of the actuarial equivalency factor tables adopted under this section.

SECTION 2. The Public Employees Retirement Board shall first adopt actuarial equiv-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 agency factor tables under ORS 238.607, as amended by section 1 of this 2017 Act, no later
 2 than January 1, 2018. The board shall use the tables adopted under this section to compute
 3 the retirement allowances of members, judge members and alternate payees for whom the
 4 effective date of retirement is on or after the effective date of this 2017 Act but before Jan-
 5 uary 1, 2018.

6
 7 **RETIREMENT AGE**

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 9 **SECTION 3.** ORS 238A.160 is amended to read:

10 238A.160. (1) Except as provided in subsections (2) and (3) of this section, normal retirement age
 11 for a member of the pension program is the earlier of:

12 **(a) For a member who establishes membership in the pension program, as provided in**
 13 **ORS 238A.100, before the effective date of this 2017 Act:**

14 [(a)] (A) 65 years of age; or

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

16 **(b) For a member who establishes membership in the pension program, as provided in**
 17 **ORS 238A.100, on or after the effective date of this 2017 Act, 67 years of age.**

18 (2) Normal retirement age for a member of the pension program who retires from service as a
 19 police officer or firefighter, and who has held a position as a police officer or firefighter contin-
 20 uously for a period of not less than five years immediately preceding the effective date of retirement,
 21 is the earlier of:

22 (a) 60 years of age; or

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

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

26 **(a) For a member who establishes membership in the pension program, as provided in**
 27 **ORS 238A.100, before the effective date of this 2017 Act:**

28 [(a)] (A) 65 years of age; or

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

30 **(b) For a member who establishes membership in the pension program, as provided in**
 31 **ORS 238A.100, on or after the effective date of this 2017 Act, 67 years of age.**

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

34 **SECTION 4.** ORS 238A.165 is amended to read:

35 238A.165. (1) Except as provided in this section, earliest retirement age for a member of the
 36 pension program is:

37 **(a) For a member who establishes membership in the pension program, as provided in**
 38 **ORS 238A.100, before the effective date of this 2017 Act, 55 years of age.**

39 **(b) For a member who establishes membership in the pension program, as provided in**
 40 **ORS 238A.100, on or after the effective date of this 2017 Act, 57 years of age.**

41 (2) Earliest retirement age for a member of the pension program who retires from service as a
 42 police officer or firefighter is 50 years of age if the member has held a position as a police officer
 43 or firefighter continuously for a period of not less than five years immediately before the effective
 44 date of retirement. Earliest retirement date for a member described in this subsection is not later
 45 than the date the member reaches 55 years of age.

1 (3) If a member of the pension program has 25 years or more of retirement credit as a tele-
 2 communicator, as defined in ORS 181A.355, earliest retirement age for the member is 55 years of
 3 age or the age of the member when the member acquires a total of 25 years or more of retirement
 4 credit as a telecommunicator, whichever occurs first. A member who retires under this subsection
 5 before attaining the age of 55 shall not receive a cost-of-living adjustment under ORS 238A.210 until
 6 the member attains the age of 55.

7 (4) A member of the pension program who has reached earliest retirement age may retire on an
 8 early retirement date that is the first day of any month on or after the member has reached earliest
 9 retirement age.

10
 11 **REDIRECTION OF EMPLOYEE CONTRIBUTION**

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 13 **SECTION 5.** ORS 238A.330 is amended to read:

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

16 (2) Employee contributions made by a member of the individual account program under this
 17 section **before January 1, 2018**, shall be credited by the **Public Employees Retirement** Board to
 18 the employee account established for the member under ORS 238A.350 (2).

19 **(3) Employee contributions made by a member of the individual account program under**
 20 **this section on or after January 1, 2018, shall be credited by the board to the member pension**
 21 **contribution account established for the member under section 8 of this 2017 Act.**

22 [(3)] (4) A new member of the individual account program shall first make contributions under
 23 this section for those wages that are attributable to services performed by the employee during the
 24 first full pay period following the six-month probationary period required under ORS 238A.300,
 25 without regard to when those wages are considered earned for other purposes under this chapter.

26 **SECTION 6.** ORS 238A.340 is amended to read:

27 238A.340. (1) A participating public employer may agree, by a written employment policy or
 28 agreement, to make employer contributions for members of the individual account program employed
 29 by the employer. The percentage of salary paid as employer contributions may not be less than one
 30 percent of salary or more than six percent of salary, and must be a whole number. A participating
 31 public employer may make an agreement under this section for specific groups of employees em-
 32 ployed by the public employer.

33 (2) If a participating public employer makes employer contributions under this section and the
 34 member for which the contributions are made fails to vest in the employer account under the pro-
 35 visions of ORS 238A.320, the Public Employees Retirement Board shall apply the contributions in
 36 the employer account against other obligations of the employer under the Oregon Public Service
 37 Retirement Plan.

38 **(3) Notwithstanding subsections (1) and (2) of this section, a participating public employer**
 39 **may not make contributions under this section on or after the later of:**

40 **(a) January 1, 2018; or**

41 **(b) The expiration of any collective bargaining agreement in effect on January 1, 2018,**
 42 **under which a participating public employer makes contributions under this section.**

43 **SECTION 7.** Section 8 of this 2017 Act is added to and made a part of ORS chapter 238A.

44 **SECTION 8.** (1) The Public Employees Retirement Board shall establish a member pen-
 45 sion contribution account for each active member of the Public Employees Retirement Sys-

1 **tem.**

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

8 **(3)(a) Unless the amounts in an account established under this section are withdrawn**
 9 **under ORS 238A.375, the amounts in the account established under this section shall be ap-**
 10 **plied by the board to pay the costs of the pension or other retirement benefits payable to the**
 11 **member or the member's beneficiary under this chapter or ORS chapter 238 that accrue on**
 12 **or after January 1, 2018.**

13 **(b) If the amounts in the account established under this section exceed the costs of the**
 14 **pension or other retirement benefits payable to the member or the member's beneficiary**
 15 **under this chapter or ORS chapter 238 that accrue on or after January 1, 2018, the board**
 16 **shall refund the excess amounts to the member upon retirement.**

17 **SECTION 9.** ORS 238A.320 is amended to read:

18 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
 19 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
 20 tablished.

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

23 (3) Except as provided in subsection (4) of this section, if an employer makes employer contri-
 24 butions for a member under ORS 238A.340 the member becomes vested in the employer account es-
 25 tablished under ORS 238A.350 (3) on the earliest of the following dates:

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

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

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

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

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

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

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

44 (6) Solely for purposes of determining whether a member is vested under subsection (3)(a) of this
 45 section, hours of service include creditable service, as defined in ORS 238.005, performed by the

1 person before the person became an eligible employee, as long as the membership of the person
2 under ORS chapter 238 has not been terminated under the provisions of ORS 238.095 on the date
3 the person becomes an eligible employee.

4 **(7) A member becomes vested in the member pension contribution account established**
5 **for the member under section 8 of this 2017 Act on the date the account is established.**

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

7 238A.375. (1) An inactive member of the individual account program may elect to receive a dis-
8 tribution of the amounts in the member's employee account, rollover account *[and]*, employer ac-
9 count **and member pension contribution account** to the extent the member is vested in those
10 accounts under ORS 238A.320 if the inactive member has separated from all service with partic-
11 ipating public employers and with employers who are treated as part of a participating public
12 employer's controlled group under the federal laws and rules governing the status of the system and
13 the fund as a qualified governmental retirement plan and trust.

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

17 (3) A member may not make an election under this section for less than all of the member's in-
18 dividual accounts described in ORS 238A.350 **and section 8 of this 2017 Act** in which the member
19 is vested.

20 (4) A member who is vested in the pension program established under this chapter and who *[is*
21 *eligible to withdraw from the pension program under ORS 238A.120 may make an election under this*
22 *section only if the member also withdraws from the pension program]* **withdraws the member's ac-**
23 **counts under this section cancels all membership rights in the Public Employees Retirement**
24 **System.**

25 (5) A member who has a member account established under ORS chapter 238 may make an
26 election under this section only if the member also withdraws that member account in the manner
27 provided by ORS 238.265. A member who has an account established under ORS 238.440 may make
28 an election under this section only if the member also withdraws the account established under ORS
29 238.440.

30 *[(5)]* (6) If an inactive member receives a distribution under subsection (1) of this section and is
31 subsequently reemployed by a participating public employer, any service performed before the date
32 the member became an inactive member may not be used toward the period of service required for
33 vesting in the employer account under ORS 238A.320.

34 **SECTION 11.** ORS 238A.410, as amended by section 9, chapter 33, Oregon Laws 2016, is
35 amended to read:

36 238A.410. (1)(a) If a member of the individual account program dies before retirement, the
37 amounts in the member's employee account, rollover account and employer account, to the extent
38 the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the
39 beneficiary or beneficiaries designated by the member for the purposes of this section.

40 **(b) If a member of the individual account program dies before retirement, the amounts**
41 **in the member pension contribution account established for the member under section 8 of**
42 **this 2017 Act shall be applied by the Public Employees Retirement Board to pay the costs of**
43 **any benefit payable under ORS 238A.230. If the amounts in the member pension contribution**
44 **account exceed the costs of the benefit payable under ORS 238A.230, the excess amounts**
45 **shall be paid in a lump sum to the beneficiary or beneficiaries designated by the member for**

1 **the purposes of this section.**

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

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

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

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

21 (c) The member's estate.

22 (4) The entire amount of a deceased member's vested accounts must be distributed by December
 23 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
 24 provision of this chapter, distributions of death benefits under the individual account program must
 25 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
 26 plementing that section, as in effect on December 31, 2015. The [*Public Employees Retirement*] board
 27 shall adopt rules implementing those minimum distribution requirements.

28 **SECTION 12.** ORS 238A.120 is amended to read:

29 238A.120. [(1) A vested inactive member may withdraw from the pension program if:]

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

32 [(b) The inactive member has separated from all service with participating public employers and
 33 with employers who are treated as part of a participating public employer's controlled group under the
 34 federal laws and rules governing the status of the system and the fund as a qualified governmental
 35 retirement plan and trust.]

36 [(2) Upon withdrawal under this section, the Public Employees Retirement Board shall pay the
 37 withdrawing member the actuarial equivalent of the member's benefit in a lump sum.]

38 [(3) If a vested inactive member withdraws from the pension program under this section and is
 39 thereafter reemployed by a participating public employer:] **A person who is a vested inactive
 40 member who withdraws from the individual account program under ORS 238A.375 cancels the
 41 person's membership in the Public Employees Retirement System. If the person is thereafter
 42 reemployed by a participating public employer:**

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

45 [(b)] (2) Any service performed before the withdrawal may not be credited toward the period of

1 service required by ORS 238A.100 or 238A.115 or toward the accrual of retirement credit under ORS
2 238A.140, 238A.150 or 238A.155.

3 *[(4) A member who has an individual account or accounts in the individual account program es-*
4 *tablished under ORS 238A.025 may withdraw from the pension program under this section only if the*
5 *member also withdraws all individual accounts pursuant to ORS 238A.375. A member who has a*
6 *member account established under ORS chapter 238 may withdraw from the pension program under*
7 *this section only if the member also withdraws that member account in the manner provided by ORS*
8 *238.265. A member who has an account established under ORS 238.440 may withdraw from the pension*
9 *program under this section only if the member also withdraws the account established under ORS*
10 *238.440.]*

11 *[(5) For the purposes of this section, the actuarial equivalent of a member's benefit does not include*
12 *any value attributable to adjustments to the benefit under ORS 238A.210.]*

13 **SECTION 13.** ORS 238.105 is amended to read:

14 238.105. (1) Whenever, within five years after the employee is separated from all service entitling
15 the employee to membership in the **Public Employees Retirement** System, an employee who has
16 withdrawn the amount credited to the member account of the member reenters the service of an
17 employer participating in the system, the employee's rights in the system that were forfeited by the
18 withdrawal shall be restored upon repaying to the **Public Employees Retirement** Board within one
19 year after reentering the service of the employer, the full amount so withdrawn together with the
20 interest that would have been accumulated on the sum had the amount not been withdrawn.

21 (2) Restoration of rights under this section does not affect any forfeiture of rights of a person
22 by reason of:

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

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

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

26 **SECTION 14.** ORS 238.115 is amended to read:

27 238.115. (1)(a) A member of the **Public Employees Retirement** System who, after separation
28 from all service entitling the employee to membership in the system and withdrawal of the amount
29 credited to the member account of the member, reenters the service of an employer participating in
30 the system and serves as an active member of the system for 10 years after that reentry, and who
31 has not otherwise obtained restoration of creditable service forfeited by the withdrawal, shall obtain
32 restoration of one full month of creditable service forfeited by the withdrawal for each three full
33 months of service as an active member after that reentry if the member, within 90 days before the
34 effective date of retirement of the member:

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

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

41 (b) If a member who obtains restoration of creditable service as provided in this subsection does
42 not obtain restoration of all creditable service forfeited by the withdrawal pursuant to service after
43 reentry, the payment under paragraph (a) of this subsection shall be reduced proportionately to re-
44 flect the percentage of creditable service restored.

45 (c) A member who obtains restoration of creditable service as provided in this subsection is not

1 entitled to elect to receive the service retirement benefit described in ORS 238.305 (2) or (3).

2 (2) A member who forfeited creditable service rendered to a public employer before March 27,
3 1953, because under ORS 237.976 (2) the employee withdrew contributions of the employee to the
4 Public Employees Retirement System established by chapter 401, Oregon Laws 1945, and who did
5 not obtain restoration of creditable service so forfeited as provided in chapter 857, Oregon Laws
6 1977, shall, upon retirement, receive restoration of creditable service so forfeited, if the member,
7 before the effective date of retirement of the member:

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

9 (b) Pays to the board in a lump sum for credit to the member account of the member an amount
10 determined by the board to be equal to the full amount of contributions so withdrawn and the in-
11 terest that would have accumulated to the regular account of the member had those contributions
12 not been withdrawn.

13 (3)(a) A member of the Public Employees Retirement System who was a member of an associ-
14 ation established pursuant to ORS chapter 239 (1997 Edition), but separated from all service entitl-
15 ing the employee to membership in the system of the association and withdrew the amount credited
16 to the member account of the employee in the retirement fund of the association, and who, after that
17 separation, entered the service of an employer in the field of education participating in the Public
18 Employees Retirement System and served as an active member of that system for 10 years after that
19 entry, and who has not otherwise obtained restoration of all creditable service forfeited by the
20 withdrawal, shall obtain creditable service as a member of the Public Employees Retirement System
21 equal to all creditable service forfeited by the withdrawal if the member within 90 days before the
22 effective date of retirement of the member:

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

24 (B) Pays to the board in a lump sum for credit to the member account of the member the amount
25 withdrawn and interest on the amount withdrawn compounded annually for each year or portion of
26 a year after the date of the withdrawal and before the effective date of retirement or effective date
27 of application of the member. The interest shall be computed at the rate actually credited to regular
28 accounts for that period.

29 (b) This subsection provides a method of obtaining creditable service for forfeited creditable
30 service described in this subsection that is in lieu of any application of subsection (1) of this section
31 for that purpose.

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

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

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

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

37 **SECTION 15.** ORS 238.265 is amended to read:

38 238.265. (1) Except as otherwise provided in this section, a member of the Public Employees
39 Retirement System may withdraw from the Public Employees Retirement Fund the amount credited
40 to the member account, if any, for the member if:

41 (a) The member is separated from all service with participating public employers;

42 (b) The member is separated from all service with employers who are treated as part of a partic-
43 ipating public employer's controlled group under the federal laws and rules governing the status
44 of the system and the fund as a qualified governmental retirement plan and trust;

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

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

2 (2) If a member wishes to withdraw the member account, if any, of the member under this sec-
3 tion, the member must transmit to the Public Employees Retirement Board a withdrawal request.
4 The board shall deny the withdrawal, or shall take all reasonable steps to recover withdrawn
5 amounts, if:

6 (a) The board determines that the separation is not a bona fide separation; or

7 (b) The member fails to remain absent from the service of all employers described in subsection
8 (1) of this section for at least one calendar month following the month in which the member sepa-
9 rates from service.

10 (3) If a member has contributed to the fund in each of five calendar years and has separated
11 from all service in the manner described in subsection (1) of this section before reaching earliest
12 service retirement age, the member may elect to withdraw the member account of the member under
13 this section at any time before reaching earliest service retirement age. If the inactive member does
14 not make an election to withdraw under this section, the member shall be paid the benefits or re-
15 tirement allowances described in ORS 238.425.

16 (4) *[A member who is vested in the pension program established under ORS chapter 238A and*
17 *who is eligible to withdraw from the pension program under ORS 238A.120 may withdraw a member*
18 *account under this section only if the member also withdraws from the pension program.]* A member
19 who has an individual account or accounts in the individual account program established under ORS
20 chapter 238A may withdraw a member account under this section only if the member also withdraws
21 all individual accounts pursuant to ORS 238A.375. A member who has an account established under
22 ORS 238.440 may withdraw a member account under this section only if the member also withdraws
23 the account established under ORS 238.440.

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

26 **SECTION 16.** ORS 238A.110 is amended to read:

27 238A.110. Membership under the pension program terminates when:

28 (1) A member dies;

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

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

31 **SECTION 17.** ORS 243.800 is amended to read:

32 243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to
33 243.945, the governing board of a public university listed in ORS 352.002 shall establish and admin-
34 ister an Optional Retirement Plan for administrative and academic employees of the public univer-
35 sity. The Optional Retirement Plan must be a qualified plan under the Internal Revenue Code,
36 capable of accepting funds transferred under subsection (7) of this section without the transfer being
37 treated as a taxable event under the Internal Revenue Code, and willing to accept those funds.
38 Retirement and death benefits shall be provided under the plan by the purchase of annuity contracts,
39 fixed or variable or a combination thereof, or by contracts for investments in mutual funds.

40 (2) An administrative or academic employee may elect to participate in the Optional Retirement
41 Plan upon completion of:

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

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

45 (3) An administrative or academic employee may make an irrevocable election to participate in

1 the Optional Retirement Plan within six months after being employed. An election under this sub-
2 section is effective on the first day of the month following the completion of the requirements of
3 subsection (2) of this section.

4 (4) An administrative or academic employee who does not elect to participate in the Optional
5 Retirement Plan:

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

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

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

14 (6)(a) An administrative or academic employee who elects to participate in the Optional Retirement
15 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who
16 is not vested shall be considered by the Public Employees Retirement Board to be a terminated
17 member under the provisions of ORS 238.095 as of the effective date of the election, and the
18 [amount] **amounts** credited to the member [account] **accounts** of the member **established under**
19 **ORS 238.250, 238.260 and 238A.350 and section 8 of this 2017 Act** shall be transferred directly to
20 the Optional Retirement Plan by the Public Employees Retirement Board in the manner provided
21 by subsection (7) of this section.

22 (b) An administrative or academic employee who elects to participate in the Optional Retirement
23 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is
24 vested shall be considered to be an inactive member by the Public Employees Retirement Board and
25 shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes
26 a written request to the Public Employees Retirement Board for a transfer of the amounts credited
27 to the member [account] **accounts** of the member **established under ORS 238.250, 238.260 and**
28 **238A.350 and section 8 of this 2017 Act** to the Optional Retirement Plan. A request for a transfer
29 must be made at the time the member elects to participate in the Optional Retirement Plan. Upon
30 receiving the request, the Public Employees Retirement Board shall transfer all amounts credited
31 to the member [account] **accounts** of the member **established under ORS 238.250, 238.260 and**
32 **238A.350 and section 8 of this 2017 Act** directly to the Optional Retirement Plan, and shall ter-
33minate all rights, privileges and options of the employee under [ORS chapter 238] **ORS 238.095**.

34 (c) [An administrative or academic employee who elects to participate in the Optional Retirement
35 Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement
36 Plan as described in ORS 238A.115] **An administrative or academic employee who elects to**
37 **participate in the Optional Retirement Plan and who is a member of the pension program**
38 **of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that**
39 **the election becomes effective, but who has not vested in the program under ORS 238A.115**
40 on the date that the election becomes effective, shall be considered to be a terminated member of
41 the [pension program] **Public Employees Retirement System** by the Public Employees Retirement
42 Board as of the effective date of the election. **The board shall transfer the amounts credited to**
43 **the member accounts of the member established under ORS 238A.350 and section 8 of this**
44 **2017 Act directly to the Optional Retirement Plan in the manner provided by subsection (7)**
45 **of this section.**

1 (d) An administrative or academic employee who elects to participate in the Optional Retirement
 2 Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement
 3 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be consid-
 4 ered an inactive member of the pension program by the Public Employees Retirement Board as of
 5 the effective date of the election. [*An employee*] **A member** who is subject to the provisions of this
 6 paragraph retains all the rights, privileges and options of an inactive member of the pension
 7 program. [*If the actuarial equivalent of the employee's benefit under the pension program at the time*
 8 *that the election becomes effective is \$5,000 or less, the employee may make*], **unless the member**
 9 **makes** a written request to the Public Employees Retirement Board for a transfer of the [*employee's*
 10 *interest under the pension program*] **amounts credited to the member accounts of the member**
 11 **established under ORS 238A.350 and section 8 of this 2017 Act** to the Optional Retirement Plan.
 12 The request must be made at the time the member elects to participate in the Optional Retirement
 13 Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the [*amount*
 14 *determined to be the actuarial equivalent of the employee's benefit under the pension program*]
 15 **amounts credited to the member accounts of the member established under ORS 238A.350**
 16 **and section 8 of this 2017 Act** directly to the Optional Retirement Plan, and shall terminate the
 17 membership of the employee in the [*pension program*] **Public Employees Retirement System.**

18 [(e) *An administrative or academic employee who elects to participate in the Optional Retirement*
 19 *Plan, and who is a vested member of the individual account program of the Oregon Public Service*
 20 *Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall*
 21 *be considered an inactive member of the individual account program by the Public Employees Retire-*
 22 *ment Board as of the effective date of the election. An employee who is subject to the provisions of this*
 23 *paragraph retains all the rights, privileges and options of an inactive member of the individual account*
 24 *program. An administrative or academic employee who elects to participate in the Optional Retirement*
 25 *Plan, and who is a member of the individual account program of the Oregon Public Service Retirement*
 26 *Plan, may make a written request to the Public Employees Retirement Board that all amounts in the*
 27 *member's employee account, rollover account and employer account, to the extent the member is vested*
 28 *in those accounts under ORS 238A.320, be transferred to the Optional Retirement Plan. The request*
 29 *must be made at the time the member elects to participate in the Optional Retirement Plan. Upon re-*
 30 *ceiving the request, the Public Employees Retirement Board shall transfer the amounts directly to the*
 31 *Optional Retirement Plan, and shall terminate the membership of the employee in the individual ac-*
 32 *count program upon making the transfer.*]

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

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

43 (8) An employee participating in the Optional Retirement Plan who was hired before July 1,
 44 2014, shall contribute monthly an amount equal to the percentage of the employee's salary that the
 45 employee would otherwise have contributed as an employee contribution to the Public Employees

1 Retirement System if the employee had not elected to participate in the Optional Retirement Plan.

2 (9) For an employee participating in the Optional Retirement Plan who was hired before July
3 1, 2014, the governing board shall contribute monthly to the Optional Retirement Plan the percent-
4 age of salary of the employee equal to the percentage of salary that would otherwise have been
5 contributed as an employer contribution on behalf of the employee to the Public Employees Retirement
6 System, before any offset under ORS 238.229 (2), if the employee had not elected to participate
7 in the Optional Retirement Plan.

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

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

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

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

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

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

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

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

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

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

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

41 (4) An administrative employee may elect to participate in the optional retirement plan only if
42 at the time the election becomes effective the employee is not concurrently employed in a position
43 with any participating public employer other than the community college district in a position that
44 entitles the employee to membership in the Public Employees Retirement System. Except as pro-
45 vided in subsection (9) of this section, employees who elect to participate in the optional retirement

1 plan are ineligible for active membership in the Public Employees Retirement System for as long as
 2 those employees are employed by a community college district that participates in the plan, whether
 3 by reason of employment by the district or any other participating public employer.

4 (5)(a) An administrative employee who elects to participate in the optional retirement plan, who
 5 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall
 6 be considered by the Public Employees Retirement Board to be a terminated member under the
 7 provisions of ORS 238.095 as of the effective date of the election, and the [amount] amounts credited
 8 to the member [account] accounts of the member **established under ORS 238.250, 238.260 and**
 9 **238A.350 and section 8 of this 2017 Act** shall be transferred directly to the optional retirement
 10 plan by the Public Employees Retirement Board in the manner provided by subsection (6) of this
 11 section.

12 (b) An administrative employee who elects to participate in the optional retirement plan, who
 13 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall
 14 be considered to be an inactive member by the Public Employees Retirement Board and shall retain
 15 all the rights, privileges and options under ORS chapter 238 unless the employee makes a written
 16 request to the Public Employees Retirement Board for a transfer of the amounts credited to the
 17 member [account] accounts of the member **established under ORS 238.250, 238.260 and 238A.350**
 18 **and section 8 of this 2017 Act** to the optional retirement plan. A request for a transfer must be
 19 made at the time the member elects to participate in the optional retirement plan. Upon receiving
 20 the request, the Public Employees Retirement Board shall transfer all amounts credited to the
 21 member [account] accounts of the member **established under ORS 238.250, 238.260 and 238A.350**
 22 **and section 8 of this 2017 Act** directly to the optional retirement plan and shall terminate all
 23 rights, privileges and options of the employee under [ORS chapter 238] **ORS 238.095**.

24 (c) [An administrative employee who elects to participate in the optional retirement plan and who
 25 is not a vested member of the pension program of the Oregon Public Service Retirement Plan as de-
 26 scribed in ORS 238A.115] **An administrative employee who elects to participate in the optional**
 27 **retirement plan and who is a member of the pension program of the Oregon Public Service**
 28 **Retirement Plan as described in ORS 238A.100 on the date that the election becomes effec-**
 29 **tive, but who has not vested in the program under ORS 238A.115** on the date that the election
 30 becomes effective shall be considered to be a terminated member of the [pension program] **Public**
 31 **Employees Retirement System** by the Public Employees Retirement Board as of the effective date
 32 of the election. **The board shall transfer the amounts credited to the member accounts of the**
 33 **member established under ORS 238A.350 and section 8 of this 2017 Act directly to the op-**
 34 **tional retirement plan in the manner provided by subsection (6) of this section.**

35 (d) An administrative employee who elects to participate in the optional retirement plan and
 36 who is a vested member of the pension program of the Oregon Public Service Retirement Plan as
 37 described in ORS 238A.115 on the date that the election becomes effective shall be considered an
 38 inactive member of the pension program by the Public Employees Retirement Board as of the ef-
 39 fective date of the election. [An employee] **A member** who is subject to the provisions of this par-
 40 agraph retains all the rights, privileges and options of an inactive member of the pension
 41 program. *If the actuarial equivalent of the employee's benefit under the pension program at the time*
 42 *that the election becomes effective is \$5,000 or less, the employee may make*, **unless the member**
 43 **makes** a written request to the Public Employees Retirement Board for a transfer of the [employee's
 44 interest under the pension program] **amounts credited to the member accounts of the member**
 45 **established under ORS 238A.350 and section 8 of this 2017 Act** to the optional retirement plan.

1 The request must be made at the time the member elects to participate in the optional retirement
 2 plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the [*amount*
 3 *determined to be the actuarial equivalent of the employee's benefit under the pension program*]
 4 **amounts credited to the member accounts of the member established under ORS 238A.350**
 5 **and section 8 of this 2017 Act** directly to the optional retirement plan and shall terminate the
 6 membership of the employee in the [*pension program*] **Public Employees Retirement System.**

7 [*(e) An administrative employee who elects to participate in the optional retirement plan and who*
 8 *is a vested member of the individual account program of the Oregon Public Service Retirement Plan*
 9 *as described in ORS 238A.320 on the date that the election becomes effective shall be considered an*
 10 *inactive member of the individual account program by the Public Employees Retirement Board as of*
 11 *the effective date of the election. An employee who is subject to the provisions of this paragraph retains*
 12 *all the rights, privileges and options of an inactive member of the individual account program. An*
 13 *administrative employee who elects to participate in the optional retirement plan and who is a member*
 14 *of the individual account program of the Oregon Public Service Retirement Plan may make a written*
 15 *request to the Public Employees Retirement Board that all amounts in the member's employee account,*
 16 *rollover account and employer account, to the extent the member is vested in those accounts under ORS*
 17 *238A.320, be transferred to the optional retirement plan. The request must be made at the time the*
 18 *member elects to participate in the optional retirement plan. Upon receiving the request, the Public*
 19 *Employees Retirement Board shall transfer the amounts directly to the optional retirement plan and*
 20 *shall terminate the membership of the employee in the individual account program.*]

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

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

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

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

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

45 (a) All contributions made to the plan before the effective date of the withdrawal remain cred-

1 ited to the employee;

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

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

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

9
10 **CALCULATION OF FINAL AVERAGE SALARY**

11
12 **SECTION 19.** ORS 238.005 is amended to read:

13 238.005. For purposes of this chapter:

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

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

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

20 (4) "Calendar year" means 12 calendar months commencing on January 1 and ending on De-
21 cember 31 following.

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

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

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

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

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

39 (8) "Employee" includes, in addition to employees, public officers, but does not include:

40 (a) Persons engaged as independent contractors.

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

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

45 (d) Persons employed and paid from federal funds received under a federal program intended

1 primarily to alleviate unemployment. However, any such person shall be considered an “employee”
 2 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects
 3 to have the person so considered by an irrevocable written notice to the board.

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

7 (9) “Final average salary” means whichever of the following is greater:

8 (a) The average salary per calendar year paid by one or more participating public employers to
 9 an employee who is an active member of the system in three of the calendar years of membership
 10 before the effective date of retirement of the employee **and before January 1, 2018**, in which three
 11 years the employee was paid the highest salary. The three calendar years in which the employee
 12 was paid the largest total salary may include calendar years in which the employee was employed
 13 for less than a full calendar year. If the number of calendar years of active membership before the
 14 effective date of retirement of the employee is three or fewer, the final average salary for the em-
 15 ployee is the average salary per calendar year paid by one or more participating public employers
 16 to the employee in all of those years, without regard to whether the employee was employed for the
 17 full calendar year.

18 **(b) The average salary per calendar year paid by one or more participating public em-**
 19 **ployers to an employee who is an active member of the system in five of the calendar years**
 20 **of membership before the effective date of retirement of the employee, in which five years**
 21 **the employee was paid the highest salary. The five calendar years in which the employee was**
 22 **paid the largest total salary may include calendar years in which the employee was employed**
 23 **for less than a full calendar year. If the number of calendar years of active membership be-**
 24 **fore the effective date of retirement of the employee is five or fewer, the final average salary**
 25 **for the employee is the average salary per calendar year paid by one or more participating**
 26 **public employers to the employee in all of those years, without regard to whether the em-**
 27 **ployee was employed for the full calendar year.**

28 *[(b)]* (c) One-third of the total salary paid by a participating public employer to an employee
 29 who is an active member of the system in the last 36 calendar months of active membership before
 30 the effective date of retirement of the employee **and before January 1, 2018**.

31 **(d) One-fifth of the total salary paid by a participating public employer to an employee**
 32 **who is an active member of the system in the last 60 calendar months of active membership.**

33 (10) “Firefighter” does not include a volunteer firefighter, but does include:

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

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

38 (11) “Fiscal year” means 12 calendar months commencing on July 1 and ending on June 30 fol-
 39 lowing.

40 (12) “Fund” means the Public Employees Retirement Fund.

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

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

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

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

5 (17) "Normal retirement age" means:

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

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

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

15 (19) "Police officer" includes:

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

21 (b) Employees of the Department of State Police who are classified as police officers by the
22 Superintendent of State Police.

23 (c) Employees of the Oregon Liquor Control Commission who are classified as regulatory spe-
24 cialists by the administrator of the commission.

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

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

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

31 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-
32 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
33 probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes
34 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
35 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
36 ented by a labor organization, any proposal by the county to change that classification or to cease
37 to classify adult parole and probation officers as police officers for the purposes of this chapter is
38 a mandatory subject of bargaining.

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

40 (i) Employees of the Port of Portland who are classified as airport police by the Board of Com-
41 missioners of the Port of Portland.

42 (j) Employees of the State Department of Agriculture who are classified as livestock police of-
43 ficers by the Director of Agriculture.

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

- 1 (L) Investigators of the Criminal Justice Division of the Department of Justice.
- 2 (m) Corrections officers as defined in ORS 181A.355.
- 3 (n) Employees of the Oregon State Lottery Commission who are classified by the Director of the
4 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.
- 5 (o) The Director of the Department of Corrections.
- 6 (p) An employee who for seven consecutive years has been classified as a police officer as de-
7 fined by this section, and who is employed or transferred by the Department of Corrections to fill
8 a position designated by the Director of the Department of Corrections as being eligible for police
9 officer status.
- 10 (q) An employee of the Department of Corrections classified as a police officer on or prior to
11 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
12 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
13 tem implemented pursuant to ORS 240.190 does not affect police officer status.
- 14 (r) Employees of a school district who are appointed and duly sworn members of a law
15 enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as
16 police officers commissioned by the district.
- 17 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
18 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
19 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
20 Department of Corrections or the Oregon Youth Authority.
- 21 (t) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-
22 scription involves the custody, control, treatment, investigation or supervision of juveniles placed
23 in such facilities.
- 24 (u) Employees of the Oregon Youth Authority who are classified as juvenile parole and pro-
25 bation officers.
- 26 (v) Employees of the Department of Human Services who are prohibited from striking under ORS
27 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS
28 443.400, that house individuals with intellectual or developmental disabilities.
- 29 (20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)
30 to (6) (1999 Edition).
- 31 (21) "Public employer" means the state, one of its agencies, any city, county, or municipal or
32 public corporation, any political subdivision of the state or any instrumentality thereof, or an agency
33 created by one or more such governmental organizations to provide governmental services. For
34 purposes of this chapter, such agency created by one or more governmental organizations is a gov-
35 ernmental instrumentality and a legal entity with power to enter into contracts, hold property and
36 sue and be sued.
- 37 (22) "Qualifying position" means one or more jobs with one or more participating public em-
38 ployers in which an employee performs 600 or more hours of service in a calendar year, excluding
39 any service in a job for which a participating public employer does not provide benefits under this
40 chapter pursuant to an application made under ORS 238.035.
- 41 (23) "Regular account" means the account established for each active and inactive member un-
42 der ORS 238.250.
- 43 (24) "Retired member" means a member who is retired for service or disability.
- 44 (25) "Retirement credit" means a period of time that is treated as creditable service for the
45 purposes of this chapter.

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

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

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

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

10 (C) Retroactive payments described in ORS 238.008; and

11 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
 12 652.190.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 **SECTION 20.** ORS 238.435 is amended to read:

41 238.435. (1) Notwithstanding the definition of "salary" or "other advantages" provided by ORS
 42 238.005, for the purpose of calculating the retirement allowance of a person who establishes mem-
 43 bership in the system on or after January 1, 1996, as described in ORS 238.430, the Public Employees
 44 Retirement Board shall not include any lump sum payment for accrued vacation pay made to the
 45 member during *[the last 36 calendar months of membership before the effective date of retirement of the*

1 *member, or during any period of time taken into account for purposes of determining the three years*
 2 *in which the member was paid the highest salary for the purposes of] **any period of time taken into***
 3 **account in** determining the member's final average salary.

4 (2) Notwithstanding the definition of "final average salary" provided by ORS 238.005, for the
 5 purpose of calculating the retirement allowance of a person who establishes membership in the
 6 system on or after January 1, 1996, as described in ORS 238.430, and who is not employed by a local
 7 government as defined in ORS 174.116, the term "final average salary" means whichever of the fol-
 8 lowing is greater:

9 (a) The average salary per calendar year paid to a public employee who is an active member
 10 of the system in three of the calendar years of membership before the effective date of retirement
 11 of the employee **and before January 1, 2018**, in which three years the employee was paid the
 12 highest salary. The three calendar years in which the employee was paid the largest total salary
 13 may include calendar years in which the employee was employed for less than a full calendar year.
 14 If the number of calendar years of active membership before the effective date of retirement of the
 15 employee is three or less, the final average salary for the employee is the average salary per cal-
 16 endar year paid to the public employee in all of those years, without regard to whether the employee
 17 was employed for full calendar years.

18 (b) **The average salary per calendar year paid to a public employee who is an active**
 19 **member of the system in five of the calendar years of membership before the effective date**
 20 **of retirement of the employee, in which five years the employee was paid the highest salary.**
 21 **The five calendar years in which the employee was paid the largest total salary may include**
 22 **calendar years in which the employee was employed for less than a full calendar year. If the**
 23 **number of calendar years of active membership before the effective date of retirement of the**
 24 **employee is five or less, the final average salary for the employee is the average salary per**
 25 **calendar year paid to the public employee in all of those years, without regard to whether**
 26 **the employee was employed for full calendar years.**

27 [(b)] (c) One-third of the total salary paid to a public employee who is an active member of the
 28 system in the last 36 calendar months of membership before the effective date of retirement of the
 29 employee **and before January 1, 2018**.

30 (d) **One-fifth of the total salary paid to a public employee who is an active member of the**
 31 **system in the last 60 calendar months of membership before the effective date of retirement**
 32 **of the employee.**

33 (3) For the purposes of calculating the final average salary of a member under subsection (2)
 34 of this section, the Public Employees Retirement Board shall:

35 (a) Include any salary paid in or for the calendar month of separation from employment;

36 (b) Exclude any salary for any pay period before the first full pay period that is included in the
 37 three calendar years of membership under subsection (2)(a) of this section **or the five calendar**
 38 **years of membership under subsection (2)(b) of this section** if the three **or five** calendar years
 39 were consecutive; and

40 (c) Exclude any salary for any pay period before the first full pay period that is included in the
 41 last 36 calendar months of membership under subsection [(2)(b)] (2)(c) of this section **or the last**
 42 **60 calendar months of membership under subsection (2)(d) of this section.**

43 (4) Notwithstanding the definition of "final average salary" provided by ORS 238.005, for the
 44 purpose of calculating the retirement allowance of a person who establishes membership in the
 45 system on or after January 1, 1996, as described in ORS 238.430, and who is employed by a local

1 government as defined in ORS 174.116, the term “final average salary” means whichever of the fol-
2 lowing is greater:

3 (a) The average salary per calendar year earned by a public employee who is an active member
4 of the system in three of the calendar years of membership before the effective date of retirement
5 of the employee **and before January 1, 2018**, in which three years the employee earned the highest
6 salary. The three calendar years in which the employee earned the largest total salary may include
7 calendar years in which the employee was employed for less than a full calendar year. If the number
8 of calendar years of active membership before the effective date of retirement of the employee is
9 three or less, the final average salary for the employee is the average salary per calendar year
10 earned by the public employee in all of those years, without regard to whether the employee was
11 employed for full calendar years.

12 (b) **The average salary per calendar year earned by a public employee who is an active**
13 **member of the system in five of the calendar years of membership before the effective date**
14 **of retirement of the employee, in which five years the employee earned the highest salary.**
15 **The five calendar years in which the employee earned the largest total salary may include**
16 **calendar years in which the employee was employed for less than a full calendar year. If the**
17 **number of calendar years of active membership before the effective date of retirement of the**
18 **employee is five or less, the final average salary for the employee is the average salary per**
19 **calendar year earned by the public employee in all of those years, without regard to whether**
20 **the employee was employed for full calendar years.**

21 [(b)] (c) One-third of the total salary earned by a public employee who is an active member of
22 the system in the last 36 calendar months of membership before the effective date of retirement of
23 the employee **and before January 1, 2018**.

24 (d) **One-fifth of the total salary earned by a public employee who is an active member of**
25 **the system in the last 60 calendar months of membership before the effective date of re-**
26 **irement of the employee.**

27 (5) The normal retirement age is 60 years of age for a member who establishes membership in
28 the system on or after January 1, 1996, as described in ORS 238.430, and who retires as other than
29 a police officer or firefighter.

30 (6) ORS 238.255 does not apply to any person who establishes membership in the Public Em-
31 ployees Retirement System on or after January 1, 1996, as described in ORS 238.430.

32 (7) Except as provided in this section, all provisions of this chapter are applicable to persons
33 who establish membership in the system on or after January 1, 1996, as described in ORS 238.430.

34 **SECTION 21.** ORS 238A.130 is amended to read:

35 238A.130. (1) Except as provided in subsection (3) of this section, for purposes of the computa-
36 tion of pension program benefits under ORS 238A.125, “final average salary” means whichever of the
37 following is greater:

38 (a) The average salary per calendar year paid to an active member in the three consecutive
39 calendar years of membership **before January 1, 2018**, that produce the highest average salary,
40 including calendar years in which the member was employed for less than a full calendar year. If
41 the number of consecutive calendar years of active membership before the effective date of retire-
42 ment of the member is three or less, the final average salary for the member is the average salary
43 per calendar year paid to the member in all of those years, without regard to whether the member
44 was employed for full calendar years.

45 (b) **The average salary per calendar year paid to an active member in the five consecutive**

1 **calendar years of membership that produce the highest average salary, including calendar**
 2 **years in which the member was employed for less than a full calendar year. If the number**
 3 **of consecutive calendar years of active membership before the effective date of retirement**
 4 **of the member is five or less, the final average salary for the member is the average salary**
 5 **per calendar year paid to the member in all of those years, without regard to whether the**
 6 **member was employed for full calendar years.**

7 [(b)] (c) One-third of the total salary paid to an active member in the last 36 calendar months
 8 of membership before the effective date of retirement of the member **and before January 1, 2018.**

9 **(d) One-fifth of the total salary paid to an active member in the last 60 calendar months**
 10 **of membership before the effective date of retirement of the member.**

11 (2) For the purposes of calculating the final average salary of a member under subsection (1)
 12 of this section, the Public Employees Retirement Board shall:

13 (a) Include any salary paid in or for the calendar month of separation from employment;

14 (b) Exclude any salary for any pay period before the first full pay period that is included in the
 15 three consecutive calendar years of membership under subsection (1)(a) of this section **or the five**
 16 **consecutive calendar years of membership under subsection (1)(b) of this section;** and

17 (c) Exclude any salary for any pay period before the first full pay period that is included in the
 18 last 36 calendar months of membership under subsection [(1)(b)] (1)(c) of this section **or the last**
 19 **60 calendar months of membership under subsection (1)(d) of this section.**

20 (3) For purposes of the computation of pension program benefits under ORS 238A.125 of a person
 21 employed by a local government as defined in ORS 174.116, "final average salary" means whichever
 22 of the following is greater:

23 (a) The average salary per calendar year earned by an active member in the three consecutive
 24 calendar years of membership **before January 1, 2018**, that produce the highest average salary,
 25 including calendar years in which the member was employed for less than a full calendar year. If
 26 the number of consecutive calendar years of active membership before the effective date of retire-
 27 ment of the member is three or less, the final average salary for the member is the average salary
 28 per calendar year earned by the member in all of those years, without regard to whether the mem-
 29 ber was employed for full calendar years.

30 **(b) The average salary per calendar year earned by an active member in the five con-**
 31 **secutive calendar years of membership that produce the highest average salary, including**
 32 **calendar years in which the member was employed for less than a full calendar year. If the**
 33 **number of consecutive calendar years of active membership before the effective date of re-**
 34 **irement of the member is five or less, the final average salary for the member is the aver-**
 35 **age salary per calendar year earned by the member in all of those years, without regard to**
 36 **whether the member was employed for full calendar years.**

37 [(b)] (c) One-third of the total salary earned by an active member in the last 36 calendar months
 38 of membership before the effective date of retirement of the member **and before January 1, 2018.**

39 **(d) One-fifth of the total salary earned by an active member in the last 60 calendar**
 40 **months of membership before the effective date of retirement of the member.**

41 (4) For the purposes of calculating the final average salary of a member under this section, the
 42 salary of the member does not include:

43 (a) Any amounts attributable to hours of overtime that exceed the average number of hours of
 44 overtime for the same class of employees as established by rule of the Public Employees Retirement
 45 Board. The Oregon Department of Administrative Services shall establish by rule more than one

1 overtime average for a class of state employees based on the geographic placement of the employees.

2 (b) Any increases in salary during the last [36] 60 calendar months of membership before the
 3 effective date of retirement of the member that:

4 (A) Are made by an employer to pay for insurance coverage previously paid for by the employer;
 5 and

6 (B) Are not offered to all employees in the same class of employees as established by rule of the
 7 board under paragraph (a) of this subsection.

8 **SECTION 22.** ORS 238.350 is amended to read:

9 238.350. (1)(a) Upon the request by a public employer that its employees be compensated for
 10 accumulated unused sick leave with pay in the form of increased retirement benefits upon service
 11 or disability retirement, the board shall establish a procedure for adding to the gross amount of
 12 salary used in determining final average salary the monetary value of one-half of the accumulated
 13 unused sick leave with pay of each retiring employee of the requesting public employer and shall
 14 establish benefits of the retiring employee on the basis of a final average salary reflecting that ad-
 15 dition.

16 (b) For employees of a common school district, a union high school district, an education service
 17 district or an institution of higher education engaged in teaching or other school activity, or em-
 18 ployees of the school operated under ORS 346.010 engaged in teaching or other school activity, who
 19 are employed under contract for a period of less than 12 consecutive months and who are entitled
 20 to sick leave with pay of less than 96 hours for a year, each hour of accumulated unused sick leave
 21 with pay shall be valued on the basis of the actual number of contract hours of employment during
 22 the last year of contributing membership of an employee before retiring and the salary of the em-
 23 ployee during the same period. This paragraph does not apply to any employee who is employed
 24 under contract for 12 consecutive months in [*any of the three or less years*] **the period or periods**
 25 used in determining the final average salary of the employee.

26 (c) For the purpose of this subsection, accumulated unused sick leave with pay includes unused
 27 sick leave with pay accumulated by an active member of the system while in the service of any
 28 public employer participating in the system that has the request described in paragraph (a) of this
 29 subsection in effect at the time of the member's separation from the service of the employer, whether
 30 that employer is or is not the employer of the member at the time of the member's retirement.

31 (d) The board shall establish rules requiring all public employers participating in the system to
 32 transmit to the board reports of unused sick leave with pay accumulated by their employees who
 33 are members of the system and to provide timely notification to each of those employees of unused
 34 sick leave with pay accumulated by the employee and reported to the board.

35 (2) Accumulated unused sick leave with pay may be considered for the purpose of subsection (1)
 36 of this section only in accordance with the following requirements:

37 (a) Sick leave not credited at the rate actually provided by the public employer may not be
 38 considered. The amount of sick leave exceeding an amount credited at the lowest rate in effect for
 39 any employee of the public employer who is normally entitled to sick leave, and in any event ex-
 40 ceeding an amount credited at a rate of eight hours for each full month worked, may not be con-
 41 sidered.

42 (b) Sick leave credited for periods when an employee was absent from employment on sabbatical
 43 leave, educational leave or any leave without pay may not be considered.

44 (c) Any period during which an employee was absent from employment for illness or injury that
 45 was charged against sick leave not qualified for consideration shall be deducted from sick leave

1 qualified for consideration.

2 (d) Sick leave for any period for which the public employer provides no sick leave with pay for
3 its employees may not be considered.

4 (e) Sick leave accumulated on and after July 1, 1973, may be considered only to the extent it is
5 supported by records of accumulation and use pursuant to a plan adopted formally by the public
6 employer.

7 (f) Accumulated unused sick leave for periods before July 1, 1973, may be considered as follows:

8 (A) If any department, bureau or other organizational unit of a public employer maintained
9 formal records of accumulation and use even though the public employer did not require that those
10 records be maintained, the accumulated unused sick leave shall be considered according to those
11 records.

12 (B) Where the public employer provided sick leave before July 1, 1973, but formal records of
13 accumulation and use were not required or if required, are unavailable or incomplete, or the sick
14 leave was subject to administrative limitations on total accumulation or transfer between public
15 employers, accumulated unused sick leave for periods before July 1, 1973, may be considered as
16 equal to 2.675 hours for each full month worked or an amount per month equal to the average
17 monthly accumulation by an employee during the period beginning July 1, 1973, and ending at the
18 time of retirement, whichever amount is greater, but reduced by the amount of any accumulated
19 unused sick leave credited to the employee on July 1, 1973.

20 (g) The written certification of a member or former member of the Legislative Assembly shall
21 constitute a formal record of accumulation and use in determining the amount of accumulated un-
22 used sick leave of an employee of the Legislative Assembly, either of its houses or any of its com-
23 mittees or officers for periods of employment before July 1, 1981. Sick leave accumulated on and
24 after July 1, 1981, by employees of the Legislative Assembly, either of its houses or any of its com-
25 mittees or officers may be considered only to the extent it is supported by records of accumulation
26 and use maintained by the Legislative Administration Committee, or any statutory, standing, special
27 or interim committee of the Legislative Assembly or either house thereof, or any constitutional or
28 statutory office of the Legislative Assembly or either house thereof, pursuant to a plan adopted
29 formally by the committee or officer.

30 (3)(a) As used in this subsection, "legislative employee" means any person employed by the
31 Legislative Assembly, either of its houses or any of its committees or officers, but does not include
32 a regular employee of a statutory committee or statutory office of the Legislative Assembly de-
33 scribed in ORS 173.005 (1).

34 (b) Upon the request of a retiring legislative employee who is a member of the system, and the
35 request of the public employer of the legislative employee, that the legislative employee be com-
36 pensated for accumulated unused vacation with pay for periods of legislative employment in the form
37 of increased retirement benefits upon service or disability retirement, the board shall add to the
38 gross amount of salary used in determining final average salary of the legislative employee the
39 monetary value of one-half of the accumulated unused vacation with pay of the legislative employee
40 and shall establish the benefits of the legislative employee on the basis of a final average salary
41 reflecting that addition.

42 (c) Accumulated unused vacation with pay may be considered for the purposes of paragraph (b)
43 of this subsection only in accordance with the following requirements:

44 (A) Vacation not credited at the rate actually provided by the public employer may not be
45 considered.

1 (B) Amounts of vacation exceeding amounts creditable to employees in the classified service of
 2 the state service pursuant to ORS 240.515 (1), and rules adopted pursuant thereto, in effect on June
 3 30, 1981, shall not be considered.

4 (C) Vacation accumulated before, on and after July 1, 1981, may be considered only to the extent
 5 it is supported by records of accumulation and use pursuant to a plan adopted formally by the public
 6 employer. However, the written certification of a member or former member of the Legislative As-
 7 sembly shall constitute a formal record of accumulation and use in determining the amount of ac-
 8 cumulated unused vacation of a legislative employee for periods of legislative employment before
 9 July 1, 1981.

10 (4) Employers with plans providing payments on account of sickness in lieu of sick leave with
 11 pay may request the board to consider the monetary value of accumulated unused payments on ac-
 12 count of sickness as if such payments were an equivalent amount of accumulated unused sick leave
 13 with pay under the same terms and conditions specified in subsections (1) and (2) of this section.

14 **SECTION 23. The amendments to ORS 238.005, 238.350, 238.435 and 238A.130 by sections**
 15 **19 to 22 of this 2017 Act apply only to a member of the Public Employees Retirement System**
 16 **whose effective date of retirement is on or after January 1, 2018.**

17
 18 **STATUS OF ELECTED OFFICIALS IN**
 19 **PUBLIC EMPLOYEES RETIREMENT SYSTEM**

20
 21 **SECTION 24. (1) A person who is appointed or elected to an elected public office serving**
 22 **a participating public employer and who is not a member of the Public Employees Retirement**
 23 **System at the time of the appointment or election may not become a member of the Public**
 24 **Employees Retirement System for the purpose of service in the elected office.**

25 **(2) If the person is eligible to participate in the state deferred compensation plan under**
 26 **ORS 243.401 to 243.507, the person may elect to participate in the state deferred compen-**
 27 **sation plan in the manner provided by ORS 243.401 to 243.507.**

28 **(3) This section does not apply to:**

29 **(a) A person appointed or elected as a member of the Legislative Assembly.**

30 **(b) A person appointed or elected as a judge of any court.**

31
 32 **EMPLOYER CONTRIBUTION RATES**

33
 34 **SECTION 25. (1) As soon as practicable after the effective date of this 2017 Act, the**
 35 **Public Employees Retirement Board shall:**

36 **(a) Determine the amount of savings in employer contributions that are attributable to**
 37 **the provisions of this 2017 Act; and**

38 **(b) Recalculate the contribution rates of all employers, pursuant to ORS 238.225, to re-**
 39 **fect the provisions of this 2017 Act.**

40 **(2) The board shall issue corrected contribution rate orders to employers affected by**
 41 **rates recalculated under this section within 90 days after the effective date of this 2017 Act.**
 42 **The corrected rates are effective July 1, 2017.**

43
 44 **EXPEDITED REVIEW BY SUPREME COURT**

1 **SECTION 26.** (1) Jurisdiction is conferred on the Supreme Court to determine in the
2 manner provided by this section whether this 2017 Act breaches any contract between
3 members of the Public Employees Retirement System and their employers or violates any
4 provision of the Oregon Constitution or of the United States Constitution, including but not
5 limited to impairment of contract rights of members of the Public Employees Retirement
6 System under Article I, section 21, of the Oregon Constitution, or Article I, section 10, clause
7 1, of the United States Constitution.

8 (2) A person who is adversely affected by this 2017 Act or who will be adversely affected
9 by this 2017 Act may institute a proceeding for review by filing with the Supreme Court a
10 petition that meets the following requirements:

11 (a) The petition must be filed within 60 days after the effective date of this 2017 Act.

12 (b) The petition must include the following:

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

14 (B) A statement and supporting affidavit showing how the petitioner is adversely af-
15 fected.

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

18 (4) Proceedings for review under this section shall be given priority over all other mat-
19 ters before the Supreme Court.

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

22 (6)(a) The Supreme Court shall allow members of the Legislative Assembly to intervene
23 in any proceeding relating to this 2017 Act. After a member intervenes in a proceeding re-
24 lating to this 2017 Act, the member has standing to participate in the proceeding even if the
25 member ceases to be a member of the Legislative Assembly.

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

29 (7) In the event the Supreme Court determines that there are factual issues in the peti-
30 tion, the Supreme Court may appoint a special master to hear evidence and to prepare re-
31 commended findings of fact.

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

34
35 **ACT DOES NOT CREATE CONTRACT RIGHTS**

36
37 **SECTION 27.** This 2017 Act does not constitute a statutory contractual promise.

38
39 **SEVERABILITY**

40
41 **SECTION 28.** It is the intent of the Legislative Assembly that all parts of this 2017 Act
42 are independent and that if any part of this 2017 Act is held unconstitutional, all remaining
43 parts shall remain in force.

44
45 **CAPTIONS**

1 **SECTION 29.** The unit captions used in this 2017 Act are provided only for the conven-
2 ience of the reader and do not become part of the statutory law of this state or express any
3 legislative intent in the enactment of this 2017 Act.

4
5 **EMERGENCY CLAUSE**
6

7 **SECTION 30.** This 2017 Act being necessary for the immediate preservation of the public
8 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
9 on its passage.

10 _____