

A-Engrossed
Senate Bill 214

Ordered by the Senate June 19
Including Senate Amendments dated June 19

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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.

Provides that post-doctoral scholars at public universities and Oregon Health and Science University are not eligible to participate in Public Employees Retirement System [*or optional retirement plans offered by universities*].

Modifies eligibility of post-doctoral scholars to participate in optional retirement plans offered by universities.

A BILL FOR AN ACT

1
2 Relating to the eligibility of post-doctoral scholars for retirement benefits; creating new provisions;
3 and amending ORS 238.005, 238A.005 and 243.800.

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

5 **SECTION 1. (1) A public university listed in ORS 352.002 or the Oregon Health and Sci-**
6 **ence University may classify a position as a post-doctoral scholar position if the position:**

7 (a) **Requires a doctoral or equivalent degree;**

8 (b) **Provides a temporary and defined period of employment with the university; and**

9 (c) **Provides clinical or academic research training under formal mentorship.**

10 (2) **As used in this section, "formal mentorship" means a training and mentoring pro-**
11 **gram that:**

12 (a) **Is set forth in writing;**

13 (b) **Is directed by a faculty member of a public university listed in ORS 352.002 or the**
14 **Oregon Health and Science University; and**

15 (c) **Teaches professional research skills needed to pursue the post-doctoral scholar's an-**
16 **ticipated career path in accordance with the requirements necessary for the funding of**
17 **sponsored research projects that include funding for post-doctoral scholars.**

18 **SECTION 2. ORS 238.005 is amended to read:**

19 238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

21 (a) Persons engaged as independent contractors.

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

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

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

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

33 **(f) Persons employed in positions classified as post-doctoral scholar positions by a public**
34 **university listed in ORS 352.002, or by the Oregon Health and Science University, under**
35 **section 1 of this 2017 Act.**

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

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

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

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

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

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

9 (11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 fol-
10 lowing.

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

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

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

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

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

21 (17) "Normal retirement age" means:

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

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

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

31 (19) "Police officer" includes:

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

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

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

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

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

45 (f) Police officers who are commissioned by a university under ORS 352.121 or 353.125 and who

1 are classified as police officers by the university.

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

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

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

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

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

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

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

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

21 (o) The Director of the Department of Corrections.

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

26 (q) An employee of the Department of Corrections classified as a police officer on or prior to
27 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
28 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
29 tem implemented pursuant to ORS 240.190 does not affect police officer status.

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

33 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
34 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
35 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
36 Department of Corrections or the Oregon Youth Authority.

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

40 (u) Employees of the Oregon Youth Authority who are classified as juvenile parole and pro-
41 bation officers.

42 (v) Employees of the Department of Human Services who are prohibited from striking under ORS
43 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS
44 443.400, that house individuals with intellectual or developmental disabilities.

45 (20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)

1 to (6) (1999 Edition).

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

8 (22) "Qualifying position" means one or more jobs with one or more participating public em-
9 ployers in which an employee performs 600 or more hours of service in a calendar year, excluding
10 any service in a job for which a participating public employer does not provide benefits under this
11 chapter pursuant to an application made under ORS 238.035.

12 (23) "Regular account" means the account established for each active and inactive member un-
13 der ORS 238.250.

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

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

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

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

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

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

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

27 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
28 652.190.

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

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

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

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

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

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

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

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

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

1 this subparagraph only for the months to which the contract pertains; or

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

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

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

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

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

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

11 **SECTION 3.** ORS 238A.005, as amended by section 2, chapter 33, Oregon Laws 2016, is amended
12 to read:

13 238A.005. For the purposes of this chapter:

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

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

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

20 (4) "Eligible employee" means a person who performs services for a participating public em-
21 ployer, including elected officials other than judges. "Eligible employee" does not include:

22 (a) Persons engaged as independent contractors;

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

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

25 (d) Persons categorized by a participating public employer as student employees;

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

27 (f) Employees of foreign trade offices of the Oregon Business Development Department who live
28 and perform services in foreign countries under the provisions of ORS 285A.075 (1)(g);

29 (g) An employee actively participating in an alternative retirement program established under
30 ORS 353.250 or an optional retirement plan established under ORS 341.551;

31 (h) Employees of a public university listed in ORS 352.002 who are actively participating in an
32 optional retirement plan offered under ORS 243.800;

33 **(i) Persons employed in positions classified as post-doctoral scholar positions by a public**
34 **university listed in ORS 352.002, or by the Oregon Health and Science University, under**
35 **section 1 of this 2017 Act;**

36 [(i)] (j) Any employee who belongs to a class of employees that was not eligible on August 28,
37 2003, for membership in the system under the provisions of ORS chapter 238 or other law;

38 [(j)] (k) Any person who belongs to a class of employees who are not eligible to become members
39 of the Oregon Public Service Retirement Plan under the provisions of ORS 238A.070 (2);

40 [(k)] (L) Any person who is retired under ORS 238A.100 to 238A.250 or ORS chapter 238 and
41 who continues to receive retirement benefits while employed; and

42 [(L)] (m) Judges.

43 (5) "Firefighter" means:

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

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

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

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

7 (7)(a) "Hour of service" means:

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

10 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave
11 during which an employee does not perform duties but for which the employee is directly or indi-
12 rectly paid or entitled to payment by a participating public employer for services in a qualifying
13 position, as long as the hour is within the number of hours regularly scheduled for the performance
14 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-
15 thorized leave.

16 (b) "Hour of service" does not include any hour for which payment is made or due under a plan
17 maintained solely for the purpose of complying with applicable workers' compensation laws or un-
18 employment compensation laws.

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

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

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

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

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

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

33 (14) "Police officer" means a police officer as described in ORS 238.005.

34 (15) "Qualifying position" means one or more jobs with one or more participating public em-
35 ployers in which an eligible employee performs 600 or more hours of service in a calendar year,
36 excluding any service in a job for which benefits are not provided under the Oregon Public Service
37 Retirement Plan pursuant to ORS 238A.070 (2).

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

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

1 (b) "Salary" includes the following amounts:

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

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

6 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit
7 plan by the employer at the election of the employee and that is not includable in the taxable in-
8 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2015.

9 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the
10 election of the employee and that is not included in the taxable income of the employee by reason
11 of 26 U.S.C. 402(e)(3), as in effect on December 31, 2015.

12 (E) Retroactive payments described in ORS 238.008.

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

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

18 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
19 652.190.

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

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

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

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

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

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

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

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

35 (H) The amount of an employee contribution to the individual account program that is paid by
36 the employer and is not deducted from the compensation of the employee, as provided under ORS
37 238A.335 (1) and (2)(b).

38 (I) Any amount in excess of \$200,000 for a calendar year. If any period over which salary is
39 determined is less than 12 months, the \$200,000 limitation for that period shall be multiplied by a
40 fraction, the numerator of which is the number of months in the determination period and the de-
41 nominator of which is 12. The board shall adopt rules adjusting this dollar limit to incorporate
42 cost-of-living adjustments authorized by the Internal Revenue Service.

43 (18) "System" means the Public Employees Retirement System.

44 **SECTION 4.** ORS 243.800 is amended to read:

45 243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to

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

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

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

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

14 (3) An administrative or academic employee **who is eligible to remain or become a member**
15 **of the Public Employees Retirement System, including an administrative or academic em-**
16 **ployee who previously participated in the Optional Retirement Plan because of employment**
17 **in a position classified as a post-doctoral scholar position under section 1 of this 2017 Act,**
18 may make an irrevocable election to participate in the Optional Retirement Plan within six months
19 after being employed. An election under this subsection is effective on the first day of the month
20 following the completion of the requirements of subsection (2) of this section.

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

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

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

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

32 (6)(a) An administrative or academic employee who elects to participate in the Optional Retirement
33 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who
34 is not vested shall be considered by the Public Employees Retirement Board to be a terminated
35 member under the provisions of ORS 238.095 as of the effective date of the election, and the amount
36 credited to the member account of the member shall be transferred directly to the Optional Retirement
37 Plan by the Public Employees Retirement Board in the manner provided by subsection (7) of
38 this section.

39 (b) An administrative or academic employee who elects to participate in the Optional Retirement
40 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is
41 vested shall be considered to be an inactive member by the Public Employees Retirement Board and
42 shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes
43 a written request to the Public Employees Retirement Board for a transfer of the amounts credited
44 to the member account of the member to the Optional Retirement Plan. A request for a transfer
45 must be made at the time the member elects to participate in the Optional Retirement Plan. Upon

1 receiving the request, the Public Employees Retirement Board shall transfer all amounts credited
2 to the member account of the member directly to the Optional Retirement Plan, and shall terminate
3 all rights, privileges and options of the employee under ORS chapter 238.

4 (c) An administrative or academic employee who elects to participate in the Optional Retirement
5 Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement
6 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be
7 considered to be a terminated member of the pension program by the Public Employees Retirement
8 Board as of the effective date of the election.

9 (d) An administrative or academic employee who elects to participate in the Optional Retirement
10 Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement
11 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be consid-
12 ered an inactive member of the pension program by the Public Employees Retirement Board as of
13 the effective date of the election. An employee who is subject to the provisions of this paragraph
14 retains all the rights, privileges and options of an inactive member of the pension program. If the
15 actuarial equivalent of the employee's benefit under the pension program at the time that the
16 election becomes effective is \$5,000 or less, the employee may make a written request to the Public
17 Employees Retirement Board for a transfer of the employee's interest under the pension program to
18 the Optional Retirement Plan. The request must be made at the time the member elects to partic-
19 ipate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement
20 Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit
21 under the pension program directly to the Optional Retirement Plan, and shall terminate the mem-
22 bership of the employee in the pension program.

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

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

45 (7) Any amounts transferred from the Public Employees Retirement Fund under subsection (6)

1 of this section shall be transferred directly to the Optional Retirement Plan by the Public Employees
2 Retirement Board and may not be made available to the employee.

3 (8) An employee participating in the Optional Retirement Plan who was hired before July 1,
4 2014, shall contribute monthly an amount equal to the percentage of the employee's salary that the
5 employee would otherwise have contributed as an employee contribution to the Public Employees
6 Retirement System if the employee had not elected to participate in the Optional Retirement Plan.

7 (9) For an employee participating in the Optional Retirement Plan who was hired before July
8 1, 2014, the governing board shall contribute monthly to the Optional Retirement Plan the percent-
9 age of salary of the employee equal to the percentage of salary that would otherwise have been
10 contributed as an employer contribution on behalf of the employee to the Public Employees Retire-
11 ment System, before any offset under ORS 238.229 (2), if the employee had not elected to participate
12 in the Optional Retirement Plan.

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

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

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

19 **(11)(a) Unless otherwise prohibited by law, a person employed in a position classified as**
20 **a post-doctoral scholar position under section 1 of this 2017 Act is an academic employee**
21 **under subsection (1) of this section and becomes a participant in the Optional Retirement**
22 **Plan when the person participates in the public university's Tax-Deferred Investment 403(b)**
23 **Plan under ORS 243.820.**

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

26 **(A) Enrollment in the public university's Tax-Deferred Investment 403(b) Plan under ORS**
27 **243.820; or**

28 **(B) Completion of:**

29 **(i) Six hundred hours of employment, or the equivalent as determined by the governing**
30 **board; and**

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

33 **(c) For a post-doctoral scholar participating in the Optional Retirement Plan, the gov-**
34 **erning board shall contribute monthly to the Optional Retirement Plan a percentage of the**
35 **post-doctoral scholar's salary equal to the percentage of salary contributed by the post-**
36 **doctoral scholar to the public university's Tax-Deferred Investment 403(b) Plan under ORS**
37 **243.820, up to four percent of the post-doctoral scholar's salary in each pay period.**

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

40 **(e) Subsections (8) to (10) of this section do not apply to a post-doctoral scholar partic-**
41 **ipating in the Optional Retirement Plan.**

42 ~~[(11)]~~ **(12)** Both employee and employer contributions to an Optional Retirement Plan shall be
43 remitted directly to the companies that have issued annuity contracts to the participating employees
44 or directly to the mutual funds.

45 ~~[(12)]~~ **(13)** Benefits under the Optional Retirement Plan are payable to employees who elect to

1 participate in the plan and their beneficiaries by the selected annuity provider or mutual fund in
2 accordance with the terms of the annuity contracts or the terms of the contract with the mutual
3 fund. Employees electing to participate in the Optional Retirement Plan agree that benefits payable
4 under the plan are not obligations of the State of Oregon or of the Public Employees Retirement
5 System.

6 **SECTION 5. The amendments to ORS 238.005, 238A.005 and 243.800 by sections 2 to 4 of**
7 **this 2017 Act apply only to a person who commences employment in a position classified as**
8 **a post-doctoral scholar position under section 1 of this 2017 Act on or after the effective date**
9 **of this 2017 Act.**

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