Senate Bill 1561
Sponsored by Senator WINTERS; Senators BAERTSCHIGER JR, BOQUIST, DEBOER, GIROD, KRUSE, LINTHICUM, THOMSEN (Presession filed.)

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.

Directs Public Employees Retirement Board to establish member pension contribution account for certain employee contributions of member of Public Employees Retirement System. Directs board to apply amounts in account to pay costs of pension or other retirement benefits payable to member earned on or after January 1, 2019.

Requires Public Employees Retirement Board and actuary to determine unfunded actuarial liability of Public Employees Retirement System by at least two methods, including and excluding side accounts.

Requires certain public bodies to calculate surplus revenue for each budget period by adjusting revenues for previous budget period by population and inflation factors. Requires public bodies to remit surplus revenue to State Treasurer for use in reducing unfunded actuarial liability of Public Employees Retirement System. Applies only if unfunded actuarial liability is $1 billion or more.

Requires Oregon Department of Administrative Services to reduce allotments to state agencies to reflect positions that have remained vacant for continuous period of six months.

Limits amounts that state agency may spend for administrative costs in biennium beginning July 1, 2019, to 90 percent of amount state agency spent for administrative costs in biennium beginning July 1, 2017.

Limits amount that Legislative Assembly may appropriate for compensation of personnel of state agency in each biennium to 101 percent of amount appropriated for compensation of personnel of state agency in preceding biennium.

Provides that Governor's budget may not include standard inflation factor for services and supplies.

Requires legislative approval of collective bargaining agreements negotiated on behalf of state agencies.

Requires public employee collective bargaining agreements to be negotiated every even year.

Suspends cost-of-living increases, salary step increases, upward reclassifications, filling of vacant positions, creating new positions and out-of-state travel for certain state employees for current biennium and biennium beginning July 1, 2019.

Creates Task Force on Education Cost Reduction.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to reducing state government costs; creating new provisions; amending ORS 238.605, 238A.320, 238A.330, 238A.335, 238A.340, 238A.350, 238A.375, 238A.410, 243.696, 243.800, 291.216, 291.263 and 341.551; and declaring an emergency.

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

PUBLIC EMPLOYEES RETIREMENT SYSTEM

COST CONTAINMENT

(Employee contributions)

SECTION 1. ORS 238A.330 is amended to read:

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

[(2) Employee contributions made by a member of the individual account program under this section shall be credited by the board to the employee account established for the member under ORS

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.

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A member of the individual account program shall make employee contributions to the individual account program of:

(a) Six percent of the member's salary, which the Public Employees Retirement Board shall credit to the employee account established for the member under ORS 238A.350 (2) and to the member pension contribution account established for the member under ORS 238A.350 (3), as directed by the member under subsection (2) of this section; and

(b)(A) For a member who established membership in the Public Employees Retirement System before August 29, 2003, as described in ORS 238A.025, six percent of the member's salary, which the board shall credit to the member pension contribution account established for the member under ORS 238A.350 (3).

(B) For a member who established membership in the system on or after August 29, 2003, as described in ORS 238A.025, four percent of the member's salary, which the board shall credit to the member pension contribution account established for the member under ORS 238A.350 (3).

The board shall allow a member to direct that all or part of the employee contribution required under subsection (1)(a) of this section be used to make the employee contribution required under subsection (1)(b) of this section. The amount used from the contribution made under subsection (1)(a) of this section to make the employee contribution under subsection (1)(b) of this section must be a percentage of salary, may not be less than one percent of salary and must be a whole number.

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

SECTION 2.
ORS 238A.335 is amended to read:

ORS 238A.335. (1) A participating public employer may agree, by a written employment policy or by a collective bargaining agreement, to pay the employee contribution required under ORS 238A.330 (1)(a). The policy or agreement need not include all members of the individual account program employed by the employer.

(2) An agreement under this section to pay the required employee contribution may provide that:

(a) Employee compensation be reduced to generate the funds needed to make the employee contributions; or

(b) Additional amounts be paid by the employer for the purpose of making the employee contributions, and employee compensation not be reduced for the purpose of generating the funds needed to make the employee contributions.

A participating public employer must give written notice to the Public Employees Retirement Board at the time that a written employment policy or collective bargaining agreement described in subsection (1) of this section is adopted or changed. The notice must specifically indicate whether the agreement is as described in subsection (2)(a) or (b) of this section. Any change in the manner in which employee contributions are to be paid applies only to employee contributions made on and after the date the notice is received by the board.

SECTION 3.
ORS 238A.340 is amended to read:

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

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

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

(a) January 1, 2019; or
(b) The expiration of any collective bargaining agreement in effect on January 1, 2019,

SECTION 4. ORS 238A.350 is amended to read:

238A.350. (1) Upon any contributions being made to the individual account program by or on
behalf of a member of the program, the Public Employees Retirement Board shall create the account
or accounts described in this section. Each account shall be adjusted at least annually in accordance
with rules adopted by the board to reflect any net earnings or losses on those contributions and to
pay the reasonable administrative costs of maintaining the program to the extent the earnings on
the assets of the program are insufficient to pay those costs. The adjustments described in this
subsection shall continue until the account is distributed to the member [or], forfeited or applied
to pay the costs of a pension or other retirement benefits under subsection (3) of this
section.

(2)(a) The board shall establish an employee account, which shall consist of the employee con-
tributions made by or on behalf of the member under ORS 238A.330 (1)(a), as adjusted under sub-
section (1) of this section, that are not allocated under ORS 238A.330 (2) to the member pension
contribution account established for the member.

(b) The board shall create a separate employee account for a member who becomes an active
member for the purpose of service in the Legislative Assembly under ORS 237.650, which shall
consist of the employee contributions made by or on behalf of the member that are attributable to
the member’s legislative service, as adjusted under subsection (1) of this section.

(3)(a) The board shall establish a member pension contribution account, which shall
consist of the employee contributions made by or on behalf of the member under ORS
238A.330 (1)(b), as adjusted under subsection (1) of this section.

(b) Unless the amounts in a member pension contribution account established under this
subsection are withdrawn under ORS 238A.375, the amounts in the account shall be applied
by the board to pay the costs of the pension or other retirement benefits payable to the
member or the member's beneficiary under this chapter or ORS chapter 238 that are earned
on or after January 1, 2019.

(c) If the amounts in the member pension contribution account established under this
subsection exceed the actuarially projected costs of the pension or other retirement benefits
payable to the member or the member's beneficiary under this chapter or ORS chapter 238
that are earned on or after January 1, 2019, the board shall refund the excess amounts to
the member upon retirement.
(3) (4) If the public employer agrees to make employer contributions under ORS 238A.340, the board shall establish an employer account, which shall consist of the employer contributions made on behalf of the member as adjusted under subsection (1) of this section.

(4) (5) If the board accepts rollover contributions on behalf of the member, the board shall establish a rollover account, which shall consist of the rollover contributions made by the member as adjusted under subsection (1) of this section. Contributions and the earnings attributable to the contributions must be accounted for separately.

(5) (6) The board shall provide an annual statement to each active and inactive member of the program that reflects the amount credited to the accounts established under this section. The statement shall reflect whether the member is vested in the employer account under the provisions of ORS 238A.320.

SECTION 5. ORS 238A.320 is amended to read:

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

(2) A member who makes rollover contributions becomes vested in the rollover account established for the member under ORS 238A.350 [(4)] (5) on the date the rollover account is established.

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

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

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

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

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

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

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

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

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

(7) A member becomes vested in the member pension contribution account established for the member under ORS 238A.350 (3) on the date the account is established.
SECTION 6. ORS 238A.375 is amended to read:
238A.375. (1)(a) An inactive member of the individual account program may elect to receive a distribution of the amounts in the member's employee account, rollover account and employer account to the extent the member is vested in those accounts under ORS 238A.320 if the inactive member has separated from all service with participating public employers and with employers who are treated as part of a participating public employer's controlled group under the federal laws and rules governing the status of the system and the fund as a qualified governmental retirement plan and trust.

(b)(A) An inactive member of the individual account program may elect to receive a distribution of the amounts in the member's member pension contribution account established for the member under ORS 238A.350 (3) if:

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

(ii) The member is eligible to withdraw and withdraws from the pension program under ORS 238A.120.

(B) The withdrawal of the member's accounts under this paragraph cancels all membership rights in the Public Employees Retirement System.

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

(3) A member may not make an election under this section for less than all of the member's individual accounts described in ORS 238A.350 in which the member is vested.

(4) A member who is vested in the pension program established under this chapter and who is eligible to withdraw from the pension program under ORS 238A.120 may make an election under this section only if the member also withdraws from the pension program.

(5) A member who has a member account established under ORS chapter 238 may make an election under this section only if the member also withdraws from the pension program.

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SECTION 7. ORS 238A.410 is amended to read:
238A.410. (1)(a) If a member of the individual account program dies before retirement, the amounts in the member's employee account, rollover account and employer account, to the extent the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary or beneficiaries designated by the member for the purposes of this section.

(b) If a member of the individual account program dies before retirement, the amounts in the member pension contribution account established for the member under ORS 238A.350 (3) shall be applied by the Public Employees Retirement Board to pay the costs of any benefit payable under ORS 238A.230. If the amounts in the member pension contribution account
exceed the costs of the benefit payable under ORS 238A.230, the excess amounts shall be paid
in a lump sum to the beneficiary or beneficiaries designated by the member for the purposes
of this section.

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

(3) For purposes of this section and ORS 238A.400 (3), if a member fails to designate a benefi-
ciary, or if the person or persons designated do not survive the member, the death benefit provided
for in this section shall be paid to the following person or persons, in the following order of priority:
(a) The member's surviving spouse or other person who is constitutionally required to be treated
in the same manner as a spouse;
(b) The member's surviving children, in equal shares; or
(c) The member's estate.

(4) The entire amount of a deceased member's vested accounts must be distributed by December
31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
provision of this chapter, distributions of death benefits under the individual account program must
comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
plementing that section, as in effect on December 31, 2016. The [Public Employees Retirement] board
shall adopt rules implementing those minimum distribution requirements.

SECTION 8. ORS 243.800 is amended to read:
243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to
243.945, the governing board of a public university listed in ORS 352.002 shall establish and admin-
ister an Optional Retirement Plan for administrative and academic employees of the public univer-
sity. The Optional Retirement Plan must be a qualified plan under the Internal Revenue Code,
capable of accepting funds transferred under subsection (7) of this section without the transfer being
treated as a taxable event under the Internal Revenue Code, and willing to accept those funds.
Retirement and death benefits shall be provided under the plan by the purchase of annuity contracts,
fixed or variable or a combination thereof, or by contracts for investments in mutual funds.
(2) An administrative or academic employee who is eligible to remain or become a member of
the Public Employees Retirement System may elect to participate in the Optional Retirement Plan
upon completion of:
(a) Six hundred hours of employment, or the equivalent as determined by the governing board;
and
(b) Six months of employment that is not interrupted by more than 30 consecutive working days.
(3) An administrative or academic employee who is eligible to remain or become a member of
the Public Employees Retirement System, including an administrative or academic employee who
previously participated in the Optional Retirement Plan because of employment in a position clas-
sified as a post-doctoral scholar position under ORS 350.370, may make an irrevocable election to
participate in the Optional Retirement Plan within six months after being employed. An election
under this subsection is effective on the first day of the month following the completion of the re-
quirements of subsection (2) of this section.

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

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

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

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

(6)(a) An administrative or academic employee who elects to participate in the Optional Retire-
ment Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who
is not vested shall be considered by the Public Employees Retirement Board to be a terminated
member under the provisions of ORS 238.095 as of the effective date of the election, and the
[amount] amounts credited to the member [account] accounts of the member established under
ORS 238.250 and 238.260 shall be transferred directly to the Optional Retirement Plan by the Public
Employees Retirement Board in the manner provided by subsection (7) of this section.

(b) An administrative or academic employee who elects to participate in the Optional Retirement
Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who
is vested shall be considered to be an inactive member by the Public Employees Retirement Board and
shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes
a written request to the Public Employees Retirement Board for a transfer of the amounts credited
to the member [account] accounts of the member established under ORS 238.250 and 238.260 to
the Optional Retirement Plan. A request for a transfer must be made at the time the member elects
to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees
Retirement Board shall transfer all amounts credited to the member [account] accounts of the
member established under ORS 238.250 and 238.260 directly to the Optional Retirement Plan, and
shall terminate all rights, privileges and options of the employee [under ORS chapter 238] as pro-
vided in ORS 238.095.

(c) [An administrative or academic employee who elects to participate in the Optional Retirement
Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement
Plan as described in ORS 238A.115] An administrative or academic employee who elects to
participate in the Optional Retirement Plan and who is a member of the pension program
of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that
the election becomes effective, but who has not vested in the program under ORS 238A.115
on the date that the election becomes effective, shall be considered to be a terminated member of
the pension program by the Public Employees Retirement Board as of the effective date of the
election. The board shall transfer the amounts credited to the member accounts of the
member directly to the Optional Retirement Plan in the manner provided by subsection (7) of this section.

(d) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be considered an inactive member of the pension program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the pension program. If the actuarial equivalent of the employee's benefit under the pension program at the time that the election becomes effective is $5,000 or less, the employee may make a written request to the Public Employees Retirement Board for a transfer of the employee's interest under the pension program to the Optional Retirement Plan. The request must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit under the pension program directly to the Optional Retirement Plan, and shall terminate the membership of the employee in the pension program.

(e) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a vested member of the individual account program of the Oregon Public Service Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall be considered an inactive member of the individual account program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the individual account program. An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a member of the individual account program of the Oregon Public Service Retirement Plan, may make a written request to the Public Employees Retirement Board that all amounts credited to the member accounts of the member established under ORS 238A.350, to the extent the member is vested in those accounts under ORS 238A.320, be transferred to the Optional Retirement Plan. The request must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts directly to the Optional Retirement Plan, and shall terminate the membership of the employee in the individual account program upon making the transfer.

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

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

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

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

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

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

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

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

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

(B) Completion of:

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

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

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

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

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

(12) Both employee and employer contributions to an Optional Retirement Plan shall be remitted directly to the companies that have issued annuity contracts to the participating employees or directly to the mutual funds.

(13) Benefits under the Optional Retirement Plan are payable to employees who elect to participate in the plan and their beneficiaries by the selected annuity provider or mutual fund in accordance with the terms of the annuity contracts or the terms of the contract with the mutual fund.

Employees electing to participate in the Optional Retirement Plan agree that benefits payable under the plan are not obligations of the State of Oregon or of the Public Employees Retirement System.

SECTION 9. ORS 341.551 is amended to read:

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

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

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

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

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

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

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

(b) An administrative employee who elects to participate in the optional retirement plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall be considered to be an inactive member by the Public Employees Retirement Board and shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes a written request to the Public Employees Retirement Board for a transfer of the amounts credited to the member [account] accounts of the member established under ORS 238.250 and 238.260 to the optional retirement plan. A request for a transfer must be made at the time the member elects to participate in the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall transfer all amounts credited to the member [account] accounts of the member established under ORS 238.250 and 238.260 directly to the optional retirement plan and shall terminate all rights, privileges and options of the employee [under ORS chapter 238] as provided in ORS 238.095.

(c) [An administrative employee who elects to participate in the optional retirement plan and who is not a vested member of the pension program of the Oregon Public Service Retirement Plan as de-
scribed in ORS 238A.115] An administrative employee who elects to participate in the optional retirement plan and who is a member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that the election becomes effective, but who has not vested in the program under ORS 238A.115 on the date that the election becomes effective, shall be considered to be a terminated member of the pension program by the Public Employees Retirement Board as of the effective date of the election. The board shall transfer the amounts credited to the member accounts of the member directly to the optional retirement plan in the manner provided by subsection (6) of this section.

(d) An administrative employee who elects to participate in the optional retirement plan and who is a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 on the date that the election becomes effective shall be considered an inactive member of the pension program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the pension program. If the actuarial equivalent of the employee's benefit under the pension program at the time that the election becomes effective is $5,000 or less, the employee may make a written request to the Public Employees Retirement Board for a transfer of the employee's interest under the pension program to the optional retirement plan. The request must be made at the time the member elects to participate in the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit under the pension program directly to the optional retirement plan and shall terminate the membership of the employee in the pension program.

(e) An administrative employee who elects to participate in the optional retirement plan and who is a vested member of the individual account program of the Oregon Public Service Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective shall be considered an inactive member of the individual account program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the individual account program. An administrative employee who elects to participate in the optional retirement plan and who is a member of the individual account program of the Oregon Public Service Retirement Plan may make a written request to the Public Employees Retirement Board that all amounts [in the member’s employee account, rollover account and employer account] credited to the member accounts of the member established under ORS 238A.350, to the extent the member is vested in those accounts under ORS 238A.320, be transferred to the optional retirement plan. The request must be made at the time the member elects to participate in the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts directly to the optional retirement plan and shall terminate the membership of the employee in the individual account program.

(f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the Public Employees Retirement Board shall not treat any employee as an inactive member under the provisions of this subsection for the purpose of receiving any benefit under ORS chapter 238 or 238A that requires that the employee be separated from all service with participating public employers and with employers who are treated as part of a participating public employer's controlled group under the federal laws and rules governing the status of the Public Employees Retirement System and the Public Employees Retirement Fund as a qualified governmental retirement plan and trust.
(6) Any amounts transferred from the Public Employees Retirement Fund under subsection (5) of this section shall be transferred directly to the optional retirement plan by the Public Employees Retirement Board and shall not be made available to the employee.

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

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

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

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

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

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

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


(2) The Public Employees Retirement Board may take any action before the operative date specified in subsection (1) of this section to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the board by the amendments to ORS 238A.320, 238A.330, 238A.335, 238A.340, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by sections 1 to 9 of this 2018 Act.

(Determination of unfunded actuarial liability)

SECTION 11. ORS 238.605 is amended to read:

238.605. (1) At least once every two years the Public Employees Retirement Board shall cause a competent actuary familiar with public systems of retirement and death benefits to prepare a report evaluating the current and prospective assets and liabilities of the system and indicating its current and prospective financial condition. In preparing the report the actuary shall investigate the mortality, disability, service and other experience of the members of, and employers participating in the system, shall state fully the condition of the system, and shall make such recommendations as the actuary deems advisable to facilitate administering it properly. The board shall publish and
distribute a summary of the report to all the public employers participating in the system. The board
can authorize the transfer of any portion of the funds collected under the provisions of ORS 238.225
to carry out the recommendations of the actuary.

[2] For the purpose of evaluating the system under this section and for the purpose of issuing re-
ports on the system, the actuary and the board shall determine the unfunded actuarial liability of the
system by calculating the difference between the actuarial value of the current and prospective liabilities
of the system and the actuarial value of the assets of the system, including any lump sum payments
made under ORS 238.229. When reporting on the unfunded actuarial liability in any official documen-
tation or report, the board shall report on the unfunded actuarial liability as determined under this
subsection.

(2)(a) For the purpose of evaluating the system under this section and for the purpose
of issuing reports on the system, the actuary and the board shall determine the unfunded
actuarial liability of the system by at least the following two methods:

(A) The board shall calculate the difference between the actuarial value of the current
and prospective liabilities of the system and the actuarial value of the assets of the system,
including any lump sum payments made under ORS 238.229; and

(B) The board shall calculate the difference between the actuarial value of the current
and prospective liabilities of the system and the actuarial value of the assets of the system,
excluding any lump sum payments made under ORS 238.229.

(b) When reporting on the unfunded actuarial liability in any official documentation or
report, the board shall provide the results of both calculations of the unfunded actuarial li-
ability as described in this subsection.

(Surplus funds above inflation and population)

SECTION 12. As used in sections 12 to 15 of this 2018 Act:

(1) “General government revenue” means revenue other than revenue the expenditure
of which is dedicated or restricted to certain purposes by a constitutional provision, statute,
charter or other law.

(2) “Population growth ratio” means the ratio of the projected population of the public
body in the upcoming budget period to the population of the public body in the current
budget period.

(3) “Qualified public body” means any entity in this state that has employees that are
members of the Public Employees Retirement System, except for an entity that is a school
district.

(4) “Unfunded actuarial liability” means the aggregate unfunded actuarial accrued liabil-
ity, if any, of the Public Employees Retirement System using the actuarial cost allocation
method and assuming a rate of return on investments of assets of no more than the average
rate of return for the previous ten years.

SECTION 13. (1) No later than three months before the beginning of each budget period,
a qualified public body shall calculate a general budget limit for the upcoming budget period
as described in this section.

(2) A general budget limit is determined by multiplying the general government revenue
projected to be available to the qualified public body for expenditure in the current budget
period by the population growth ratio of the public body, then adding the product of the total
and the percentage change in the U.S. City Average Consumer Price Index for All Urban
Consumers (All Items) as published by the Bureau of Labor Statistics of the United States
Department of Labor from January 1 of the preceding year to January 1 of the current year
or, if such index is not available, a substantially similar index.

SECTION 14. (1) At the end of each budget period, a qualified public body shall remit all
general government revenue that it collected in excess of its general budget limit determined
under section 13 of this 2018 Act to the State Treasurer.

(2) A qualified public body shall make the remittance required by subsection (1) of this
section within 90 days of the end of the budget period.

(3) The State Treasurer shall transfer the moneys remitted under this section to the
Public Employees Retirement Fund established under ORS 238.660, to be applied against the
unfunded actuarial liability of the system.

SECTION 15. (1) Before February 1 of each year, the State Treasurer shall calculate, or
cause to be calculated, the unfunded actuarial liability.

(2) Sections 13 and 14 of this 2018 Act do not apply if the liability calculated under sub-
section (1) of this section is less than $1 billion.

REDUCTION OF FUNDING DUE TO LONG-TERM VACANCIES

SECTION 16. ORS 291.263 is amended to read:

291.263. (1) As used in this section, “state agency” includes any state officer, department, board,
commission or court, the Legislative Assembly, its committees, officers and employees.

(2) A state agency shall inform the Oregon Department of Administrative Services of any posi-
tion that has remained vacant for a continuous period of six months by including a report on the
position in the estimate submitted to the department under ORS 291.242. The department [may] shall
consider the vacancy in its determinations under ORS 291.244 and [may] shall reduce the amount
allotted to the state agency.

(3) The department shall, on or before February 1 of each year, provide a report to the Legis-
lative Fiscal Officer of any position that has remained vacant for a continuous period of at least six
months. The department shall include in the report the amount and source of funds for the position.
For each position included on a previous report under this subsection, the department shall notify
the Legislative Fiscal Officer of conditions that affect the position, including recruitment actions,
filling the position or using the position for purposes other than what was anticipated in the
legislatively approved budget. The Legislative Fiscal Officer shall review the list and make recom-
mendations on adjustments to agency position authority to the Joint Committee on Ways and Means.

REDUCTION OF ADMINISTRATIVE COSTS

SECTION 17. (1) As used in this section:

(a) “Administrative costs” means expenses of a state agency that are related to man-
agement, supervision, budgeting or execution of the affairs of the state agency and that are
not directly related to carrying out the core functions and duties of the state agency.

(b) “State agency” has the meaning given that term in ORS 291.227, except that the term
also includes school districts, as defined in ORS 332.002.

(2) In the biennium beginning July 1, 2019, each state agency may spend an amount for
administrative costs that is no greater than 90 percent of the amount the state agency spent
for administrative costs in the biennium beginning July 1, 2017.

(3) The Oregon Department of Administrative Services may, by rule, determine which
expenses of a state agency constitute administrative costs.

LIMITATION ON COMPENSATION INCREASES

SECTION 18. (1) For each biennium, the Legislative Assembly may not approve a total
amount of appropriations for compensation of personnel of state agencies that is greater
than 101 percent of the total amount of appropriations for compensation of personnel of state
agencies in the preceding biennium.

(2) As used in this section:
(a) “Appropriations” has the meaning given that term in ORS 291.357 (3).
(b) “State agency” has the meaning given that term in ORS 291.002.

ELIMINATION OF STANDARD INFLATION

SECTION 19. ORS 291.216 is amended to read:
291.216. (1) The Governor's budget shall include a budget message prepared by the Governor,
including recommendations of the Governor with reference to the fiscal policy of the state govern-
ment for the coming biennium, describing the important features of the budget, embracing a general
budget summary setting forth the aggregate figures of the budget so as to show a balanced relation
between the total proposed expenditures and the total anticipated income, with the basis and factors
on which the estimates are made, the amount to be borrowed, and other means of financing the esti-
mated expenditures for the ensuing biennium, compared with the corresponding figures for at least
the last completed biennium and the current biennium.

(2) The Governor's budget shall be supported by explanatory schedules or statements, classifying
the expenditures reported in the budget, both past and proposed, by organization units, objects and
funds, and the income by organization units, sources and funds, and the proposed amount of new
borrowing as well as proposed new tax or revenue sources, including a single comprehensive list
of all proposed increases in fees, licenses and assessments assumed in the budget.

(3) The Governor's budget shall be submitted for all dedicated funds, as well as the state Gen-
eral Fund, and shall include the estimated amounts of federal and other aids or grants to state
agencies or activities provided for any purpose whatever, together with estimated expenditures
therefrom.

(4) The Governor's budget shall embrace the detailed estimates of expenditures and revenues.
It shall include:
(a) Statements of the bonded indebtedness of the state government, showing the actual amount
of the debt service for at least the past biennium, and the estimated amount for the current
biennium and the ensuing biennium, the debt authorized and unissued, the condition of the sinking
funds and the borrowing capacity.
(b) The Governor's recommendations concerning tax expenditures identified under ORS 291.214.
(c) Any statements relative to the financial plan which the Governor may consider desirable or
which may be required by the Legislative Assembly.

(5) The Governor's budget shall use the estimated revenues under ORS 291.342 for the fiscal
year in which the budget is submitted as the basis for total anticipated income under subsection (1) of this section, subject to adjustment as may be necessary to reflect accurately projections for the next biennium.

(6)(a) The Governor's budget shall present information regarding the expenses of the state in the following categories:

(A) Personnel expenses, including compensation and benefits for state employees, but excluding costs of services contracted out and temporary service costs.

(B) Supplies, equipment and the costs of services contracted out.

(C) Special payments.

(D) Capital construction.

(E) Capital outlay.

(F) Debt service.

(b) For each category described in paragraph (a) of this subsection, the budget shall show actual expenditures for the prior biennium and estimated expenditures for the current biennium.

(c) As supplemental information to the budget, the Governor shall include an estimate of the projected costs of continuing currently authorized programs in the next biennium. The estimate shall include, but is not limited to the projected costs of:

(A) Removing one-time expenditures;

(B) Program phase-ins and phase-outs;

(C) Personnel expenses compared to existing compensation plan agreements, including position vacancy experience calculations;

(D) Inflation [for services, supplies and medical costs], except for standard inflation for services and supplies;

(E) Transfers between state funds or accounts;

(F) Mandated caseload changes; and

(G) Debt service for previously issued debt.

(d) The budget shall show the total increase in the cost of salaries and benefits for all state positions.

(7) The Governor's budget shall include:

(a) The total number of positions and full-time equivalent positions included in the budget.

(b) The average vacancy rate in the present biennium.

(c) The number of permanent, full-time equivalent vacancies as of July 1 of even-numbered years.

(8) The Governor's budget shall include computations showing budget figures as a percentage of the total General Fund, federal fund, fee or other source category, as may be appropriate.

(9) The Governor's budget shall include, in a format that provides side-by-side comparison with the State Debt Policy Advisory Commission report of net debt capacity, a six-year forecast, by debt type and repayment source, of:

(a) That portion of the capital construction program required to be reported by ORS 291.224 that will be financed by debt issuance.

(b) The acquisition of equipment or technology in excess of $500,000 that will be financed by debt issuance.

(c) Other state agency debt issuance for grant or loan purposes.

(10) The Governor's budget shall include the outcomes-based budgeting information required by ORS 291.217 (2) and (3).

(11) The Governor's budget shall include recommendations regarding available funds that could
be used to make lump sum payments to the Public Employees Retirement System under ORS 238.229.

(12) The Governor’s budget may not include a standard inflation factor for services and supplies.

**COLLECTIVE BARGAINING**

**SECTION 20.** Section 21 of this 2018 Act is added to and made a part of ORS 243.650 to 243.782.

**SECTION 21.** A collective bargaining agreement entered into under ORS 243.650 to 243.782 shall:

(1) Be negotiated and entered into no later than October 1 of the even year immediately preceding the biennium in which the agreement takes effect;

(2) Take effect on July 1 of the year immediately following the date on which the agreement was entered into; and

(3) Remain in effect for a period no longer than two years, but may be renewed.

**SECTION 22.** Section 21 of this 2018 Act applies to collective bargaining agreements entered into or renewed on or after the effective date of this 2018 Act.

**SECTION 23.** ORS 243.696 is amended to read:

243.696. (1)(a) The Oregon Department of Administrative Services shall represent all state agencies which have bargaining units in collective bargaining negotiations with the certified or recognized exclusive representatives of all appropriate bargaining units of exempt, unclassified and classified employees, except those unclassified employees governed by the provisions of ORS 240.240. The department may delegate such collective bargaining responsibility to operating agencies as may be appropriate.

(b) The Director of the Oregon Department of Administrative Services shall submit any collective bargaining agreement negotiated by the department to the Legislative Assembly for approval. If the negotiated agreement is not approved by three-fifths of the members serving in each house of the Legislative Assembly, the negotiated agreement shall be returned to the director for further bargaining.

(2) The Chief Justice of the Supreme Court shall represent the judicial department in collective bargaining negotiations with the certified or recognized exclusive representatives of all appropriate bargaining units of officers and employees of the courts of this state who are state officers or employees. The Chief Justice may delegate such collective bargaining responsibility to the state court administrator.

**STATE AGENCY EMPLOYMENT**

**SECTION 24.** (1) As used in this section, “state agency” means the:

(a) Bureau of Labor and Industries;

(b) Department of Consumer and Business Services;

(c) Department of Education;

(d) Department of Environmental Quality;

(e) Department of Land Conservation and Development;

(f) Department of Transportation;

(g) Oregon Department of Administrative Services; and
(h) State Department of Energy.

(2) Notwithstanding any other provision of law, for the biennium ending June 30, 2019, and the biennium beginning July 1, 2019:
(a) All cost-of-living increases to salaries of state agency employees are suspended;
(b) All step increases within the salary range of each state agency employee are sus- pended;
(c) All upward reclassifications of state agency employees are suspended;
(d) Vacant positions within a state agency may not be filled except when necessary to protect essential services of the state agency;
(e) New positions within a state agency may not be created except when necessary to protect essential services of the state agency;
(f) If allowed by terms of the agreement or contract and notwithstanding any other law, the terms of any collective bargaining agreement or services contract entered into by a state agency concerning cost-of-living increases, salary step increases, reclassifications and the filling of vacant positions are suspended;
(g) Payments by state agencies for out-of-state travel by employees of the state agency are prohibited;
(h) Purchases of goods and supplies for which payment is not already obligated are sus- pended; and
(i) Expenditures by the state agency may not exceed the levels of expenditures allowed under the legislatively approved budget for the agency during the biennium ending June 30, 2017.

(3) When a salary increase suspension under this section is no longer in effect, the salary increase applies only prospectively. A state agency may not retroactively pay a salary increase suspended under this section for any period during which the salary increase was suspended.

(4) This section does not apply to state officers elected by popular vote, or appointed to fill vacancies in elective offices, whose salaries are fixed by law.

SECTION 25. Section 24 of this 2018 Act is repealed on June 30, 2021.

TASK FORCE ON EDUCATION COST REDUCTION

SECTION 26. (1) The Task Force on Education Cost Reduction is established.
(2) The task force consists of nine members appointed as follows:
(a) The President of the Senate shall appoint one member from among members of the Senate;
(b) The Senate Minority Leader shall appoint one member from among members of the Senate;
(c) The Speaker of the House of Representatives shall appoint one member from among members of the House of Representatives;
(d) The House Minority Leader shall appoint one member from among members of the House of Representatives; and
(e) The Deputy Superintendent of Public Instruction shall appoint five members who represent public school teachers, public school administrators, district school board members and personnel of education service districts.
(3) The task force shall identify effective and efficient uses of state education resources and shall make recommendations regarding the elimination of unnecessary administrative requirements.

(4) A majority of the members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the members of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) The task force shall submit a report on the findings and recommendations described in subsection (3) of this section to the regular committees of the Legislative Assembly related to education no later than March 1, 2020.

(11) The Legislative Policy and Research Director may employ persons necessary for the performance of the functions of the task force. The Legislative Policy and Research Director shall fix the duties and amounts of compensation of these employees. The task force shall use the services of continuing legislative staff, without employing additional persons, to the greatest extent practicable.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of the duties of the task force and, to the extent permitted by laws relating to confidentiality, to furnish the information and advice the members of the task force consider necessary to perform their duties.

SECTION 27. Section 26 of this 2018 Act is repealed on January 2, 2021.

REVIEW BY SUPREME COURT

SECTION 28. (1) Jurisdiction is conferred upon the Supreme Court to determine in the manner provided by this section whether this 2018 Act breaches any contract between members of the Public Employees Retirement System and their employers or violates any provision of the Oregon Constitution or of the United States Constitution, including but not limited to impairment of contract rights of members of the Public Employees Retirement System under Article I, section 21, of the Oregon Constitution, or Article I, section 10, clause 1, of the United States Constitution.

(2) A person who is adversely affected by this 2018 Act or who will be adversely affected by this 2018 Act may institute a proceeding for review by filing with the Supreme Court a petition that meets the following requirements:

(a) The petition must be filed within 60 days after the effective date of this 2018 Act.

(b) The petition must include the following:

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

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

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

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

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

(6)(a) The Supreme Court shall allow members of the Legislative Assembly to intervene in any proceeding relating to this 2018 Act. After a member intervenes in a proceeding relating to this 2018 Act, the member has standing to participate in the proceeding even if the member ceases to be a member of the Legislative Assembly.

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

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

CAPTIONS

SECTION 29. The unit captions used in this 2018 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2018 Act.

EMERGENCY CLAUSE

SECTION 30. This 2018 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect on its passage.