

Senate Bill 531

Sponsored by Senator KNOPP (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**.

Redirects employee contribution to Public Employees Retirement System to account to be used to pay for pension or other retirement benefits payable to member or member's beneficiary accrued on or after January 1, 2020.

For years beginning in 2020, caps at \$100,000 annual salary used to calculate final average salary for purposes of system.

Changes calculation of final average salary for purposes of system to use five years of salary instead of three years, for salary paid on and after January 1, 2020.

Lowers pension factor used to calculate pension benefits of members of system for service performed on and after January 1, 2020.

Directs Public Employees Retirement Board to recalculate employer contribution rates to reflect savings attributable to Act.

Provides for expedited review of Act by Supreme Court upon petition by adversely affected party.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to public employee retirement; creating new provisions; amending ORS 238.005, 238.300, 238.350, 238.435, 238.580, 238A.005, 238A.125, 238A.130, 238A.320, 238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551; and declaring an emergency.

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

REDIRECTION OF 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*] **contributions** account established for the member under ORS 238A.350 (2).

(3) 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.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

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 the assets of the program are insufficient to pay those costs. The adjustments described in this
 2 subsection shall continue until the account is distributed to the member [*or*], forfeited **or applied**
 3 **to pay the costs of a pension or other retirement benefits under subsection (3) of this**
 4 **section.**

5 (2)(a) The board shall establish an employee account, which shall consist of the employee con-
 6 tributions made by or on behalf of the member **before January 1, 2020**, as adjusted under subsection
 7 (1) of this section.

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

12 **(3)(a) The board shall establish a contributions account, which shall consist of the em-**
 13 **ployee contributions made by or on behalf of the member under ORS 238A.330 on and after**
 14 **January 1, 2020, as adjusted under subsection (1) of this section.**

15 **(b) Unless the amounts in a contributions account established under this subsection are**
 16 **withdrawn under ORS 238A.375, the amounts in the account shall be applied by the board to**
 17 **pay the costs of the pension or other retirement benefits payable to the member or the**
 18 **member's beneficiary under this chapter or ORS chapter 238 that are earned on or after**
 19 **January 1, 2020.**

20 **(c) If the amounts in the contributions account established under this subsection exceed**
 21 **the actuarially projected costs of the pension or other retirement benefits payable to the**
 22 **member or the member's beneficiary under this chapter or ORS chapter 238 that are earned**
 23 **on or after January 1, 2020, the board shall refund the excess amounts to the member upon**
 24 **retirement.**

25 [(3)] (4) If the public employer agrees to make employer contributions under ORS 238A.340, the
 26 board shall establish an employer account, which shall consist of the employer contributions made
 27 on behalf of the member as adjusted under subsection (1) of this section.

28 [(4)] (5) If the board accepts rollover contributions on behalf of the member, the board shall
 29 establish a rollover account, which shall consist of the rollover contributions made by the member
 30 as adjusted under subsection (1) of this section. Contributions and the earnings attributable to the
 31 contributions must be accounted for separately.

32 [(5)] (6) The board shall provide an annual statement to each active and inactive member of the
 33 program that reflects the amount credited to the accounts established under this section. The
 34 statement shall reflect whether the member is vested in the employer account under the provisions
 35 of ORS 238A.320.

36 **SECTION 3.** ORS 238A.320 is amended to read:

37 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
 38 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
 39 tablished.

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

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

45 (a) The date on which the member completes at least 600 hours of service in each of five cal-

1 endar years. The five calendar years need not be consecutive, but are subject to the provisions of
2 subsection (5) of this section.

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

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

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

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

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

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

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

23 **(7) A member becomes vested in the contributions account established for the member**
24 **under ORS 238A.350 (3) on the date the account is established.**

25 **SECTION 4.** ORS 238A.375 is amended to read:

26 238A.375. (1)(a) An inactive member of the individual account program may elect to receive a
27 distribution of the amounts in the member's employee account, rollover account and employer ac-
28 count to the extent the member is vested in those accounts under ORS 238A.320 if the inactive
29 member has separated from all service with participating public employers and with employers who
30 are treated as part of a participating public employer's controlled group under the federal laws and
31 rules governing the status of the system and the fund as a qualified governmental retirement plan
32 and trust.

33 **(b)(A) An inactive member of the individual account program may elect to receive a dis-**
34 **tribution of the amounts in the member's contributions account established for the member**
35 **under ORS 238A.350 (3) if:**

36 **(i) The inactive member has separated from all service with participating public employ-**
37 **ers and with employers who are treated as part of a participating public employer's con-**
38 **trolled group under the federal laws and rules governing the status of the system and the**
39 **fund as a qualified governmental retirement plan and trust; and**

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

42 **(B) The withdrawal of the member's accounts under this paragraph cancels all member-**
43 **ship rights in the Public Employees Retirement System.**

44 (2) If an inactive member of the individual account program who is not vested in the employer
45 account receives a distribution under subsection (1) of this section, the employer account of the

1 member is permanently forfeited as of the date of the distribution.

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

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

7 (5) A member who has a member account established under ORS chapter 238 may make an
 8 election under this section only if the member also withdraws that member account in the manner
 9 provided by ORS 238.265. A member who has an account established under ORS 238.440 may make
 10 an election under this section only if the member also withdraws the account established under ORS
 11 238.440.

12 [(5)] (6) If an inactive member receives a distribution under subsection (1) of this section and is
 13 subsequently reemployed by a participating public employer, any service performed before the date
 14 the member became an inactive member may not be used toward the period of service required for
 15 vesting in the employer account under ORS 238A.320.

16 **SECTION 5.** ORS 238A.410, as amended by section 9, chapter 101, Oregon Laws 2018, is
 17 amended to read:

18 238A.410. (1)(a) If a member of the individual account program dies before retirement, the
 19 amounts in the member's employee account, rollover account and employer account, to the extent
 20 the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the
 21 beneficiary or beneficiaries designated by the member for the purposes of this section.

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

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

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

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

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

2 (c) The member's estate.

3 (4) The entire amount of a deceased member's vested accounts must be distributed by December
4 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
5 provision of this chapter, distributions of death benefits under the individual account program must
6 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
7 plementing that section, as in effect on December 31, 2017. The [*Public Employees Retirement*] board
8 shall adopt rules implementing those minimum distribution requirements.

9 **SECTION 6.** ORS 243.800 is amended to read:

10 243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to
11 243.945, the governing board of a public university listed in ORS 352.002 shall establish and admin-
12 ister an Optional Retirement Plan for administrative and academic employees of the public univer-
13 sity. The Optional Retirement Plan must be a qualified plan under the Internal Revenue Code,
14 capable of accepting funds transferred under subsection (7) of this section without the transfer being
15 treated as a taxable event under the Internal Revenue Code, and willing to accept those funds.
16 Retirement and death benefits shall be provided under the plan by the purchase of annuity contracts,
17 fixed or variable or a combination thereof, or by contracts for investments in mutual funds.

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

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

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

24 (3) An administrative or academic employee who is eligible to remain or become a member of
25 the Public Employees Retirement System, including an administrative or academic employee who
26 previously participated in the Optional Retirement Plan because of employment in a position clas-
27 sified as a post-doctoral scholar position under ORS 350.370, may make an irrevocable election to
28 participate in the Optional Retirement Plan within six months after being employed. An election
29 under this subsection is effective on the first day of the month following the completion of the re-
30 quirements of subsection (2) of this section.

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

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

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

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

42 (6)(a) An administrative or academic employee who elects to participate in the Optional Retire-
43 ment Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who
44 is not vested shall be considered by the Public Employees Retirement Board to be a terminated
45 member under the provisions of ORS 238.095 as of the effective date of the election, and the

1 [amount] **amounts** credited to the member [account] **accounts** of the member **established under**
2 **ORS 238.250 and 238.260** shall be transferred directly to the Optional Retirement Plan by the Public
3 Employees Retirement Board in the manner provided by subsection (7) of this section.

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

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

27 (d) An administrative or academic employee who elects to participate in the Optional Retirement
28 Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement
29 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be consid-
30 ered an inactive member of the pension program by the Public Employees Retirement Board as of
31 the effective date of the election. An employee who is subject to the provisions of this paragraph
32 retains all the rights, privileges and options of an inactive member of the pension program. If the
33 actuarial equivalent of the employee's benefit under the pension program at the time that the
34 election becomes effective is \$5,000 or less, the employee may make a written request to the Public
35 Employees Retirement Board for a transfer of the employee's interest under the pension program to
36 the Optional Retirement Plan. The request must be made at the time the member elects to partic-
37 ipate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement
38 Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit
39 under the pension program directly to the Optional Retirement Plan, and shall terminate the mem-
40 bership of the employee in the pension program.

41 (e) An administrative or academic employee who elects to participate in the Optional Retirement
42 Plan, and who is a vested member of the individual account program of the Oregon Public Service
43 Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall
44 be considered an inactive member of the individual account program by the Public Employees Re-
45 tirement Board as of the effective date of the election. An employee who is subject to the provisions

1 of this paragraph retains all the rights, privileges and options of an inactive member of the indi-
2 vidual account program. An administrative or academic employee who elects to participate in the
3 Optional Retirement Plan, and who is a member of the individual account program of the Oregon
4 Public Service Retirement Plan, may make a written request to the Public Employees Retirement
5 Board that all amounts [*in the member's employee account, rollover account and employer account*]
6 **credited to the member accounts of the member established under ORS 238A.350**, to the extent
7 the member is vested in those accounts under ORS 238A.320, be transferred to the Optional Retire-
8 ment Plan. The request must be made at the time the member elects to participate in the Optional
9 Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer
10 the amounts directly to the Optional Retirement Plan, and shall terminate the membership of the
11 employee in the individual account program upon making the transfer.

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

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

22 (8) An employee participating in the Optional Retirement Plan who was hired before July 1,
23 2014, shall contribute monthly an amount equal to the percentage of the employee's salary that the
24 employee would otherwise have contributed as an employee contribution to the Public Employees
25 Retirement System if the employee had not elected to participate in the Optional Retirement Plan.

26 (9) For an employee participating in the Optional Retirement Plan who was hired before July
27 1, 2014, the governing board shall contribute monthly to the Optional Retirement Plan the percent-
28 age of salary of the employee equal to the percentage of salary that would otherwise have been
29 contributed as an employer contribution on behalf of the employee to the Public Employees Retire-
30 ment System, before any offset under ORS 238.229 (2), if the employee had not elected to participate
31 in the Optional Retirement Plan.

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

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

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

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

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

44 (A) Enrollment in the public university's Tax-Deferred Investment 403(b) Plan under ORS
45 243.820; or

1 (B) Completion of:

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

3 and

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

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

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

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

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

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

22 **SECTION 7.** ORS 341.551 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

1 employee in the pension program.

2 (e) An administrative employee who elects to participate in the optional retirement plan and
3 who is a vested member of the individual account program of the Oregon Public Service Retirement
4 Plan as described in ORS 238A.320 on the date that the election becomes effective shall be consid-
5 ered an inactive member of the individual account program by the Public Employees Retirement
6 Board as of the effective date of the election. An employee who is subject to the provisions of this
7 paragraph retains all the rights, privileges and options of an inactive member of the individual ac-
8 count program. An administrative employee who elects to participate in the optional retirement plan
9 and who is a member of the individual account program of the Oregon Public Service Retirement
10 Plan may make a written request to the Public Employees Retirement Board that all amounts [*in the*
11 *member's employee account, rollover account and employer account*] **credited to the member ac-**
12 **counts of the member established under ORS 238A.350**, to the extent the member is vested in
13 those accounts under ORS 238A.320, be transferred to the optional retirement plan. The request
14 must be made at the time the member elects to participate in the optional retirement plan. Upon
15 receiving the request, the Public Employees Retirement Board shall transfer the amounts directly
16 to the optional retirement plan and shall terminate the membership of the employee in the individual
17 account program.

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

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

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

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

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

42 (a) All contributions made to the plan before the effective date of the withdrawal remain cred-
43 ited to the employee;

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

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

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

6 **SECTION 8. (1) The amendments to ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410,**
 7 **243.800 and 341.551 by sections 1 to 7 of this 2019 Act become operative on January 1, 2020.**

8 **(2) The Public Employees Retirement Board may take any action before the operative**
 9 **date specified in subsection (1) of this section to enable the board to exercise, on and after**
 10 **the operative date specified in subsection (1) of this section, all the duties, functions and**
 11 **powers conferred on the board by the amendments to ORS 238A.320, 238A.330, 238A.350,**
 12 **238A.375, 238A.410, 243.800 and 341.551 by sections 1 to 7 of this 2019 Act.**

13
 14 **FINAL AVERAGE SALARY**

15
 16 **SECTION 9.** ORS 238.005, as amended by section 4, chapter 54, Oregon Laws 2018, is amended
 17 to read:

18 238.005. For purposes of this chapter:

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

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

24 (3) “Board” means the Public Employees Retirement Board.

25 (4) “Calendar year” means 12 calendar months commencing on January 1 and ending on De-
 26 cember 31 following.

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

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

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

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

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

44 (8) “Employee” includes, in addition to employees, public officers, but does not include:

45 (a) Persons engaged as independent contractors.

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

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

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

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

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

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

15 (a) The average salary per calendar year paid by one or more participating public employers to
16 an employee who is an active member of the system in three of the calendar years of membership
17 before the effective date of retirement of the employee **and before January 1, 2020**, in which three
18 years the employee was paid the highest salary. The three calendar years in which the employee
19 was paid the largest total salary may include calendar years in which the employee was employed
20 for less than a full calendar year. If the number of calendar years of active membership before the
21 effective date of retirement of the employee is three or fewer, the final average salary for the em-
22 ployee is the average salary per calendar year paid by one or more participating public employers
23 to the employee in all of those years, without regard to whether the employee was employed for the
24 full calendar year.

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

35 [(b)] (c) One-third of the total salary paid by a participating public employer to an employee
36 who is an active member of the system in the last 36 calendar months of active membership before
37 the effective date of retirement of the employee **and before January 1, 2020**.

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

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

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

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

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

1 lowing.

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

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

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

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

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

12 (17) "Normal retirement age" means:

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

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

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

22 (19) "Police officer" includes:

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

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

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

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

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

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

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

- 1 (h) Police officers appointed under ORS 276.021 or 276.023.
- 2 (i) Employees of the Port of Portland who are classified as airport police by the Board of Com-
3 missioners of the Port of Portland.
- 4 (j) Employees of the State Department of Agriculture who are classified as livestock police of-
5 ficers by the Director of Agriculture.
- 6 (k) Employees of the Department of Public Safety Standards and Training who are classified by
7 the department as other than secretarial or clerical personnel.
- 8 (L) Investigators of the Criminal Justice Division of the Department of Justice.
- 9 (m) Corrections officers as defined in ORS 181A.355.
- 10 (n) Employees of the Oregon State Lottery Commission who are classified by the Director of the
11 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.
- 12 (o) The Director of the Department of Corrections.
- 13 (p) An employee who for seven consecutive years has been classified as a police officer as de-
14 fined by this section, and who is employed or transferred by the Department of Corrections to fill
15 a position designated by the Director of the Department of Corrections as being eligible for police
16 officer status.
- 17 (q) An employee of the Department of Corrections classified as a police officer on or prior to
18 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
19 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
20 tem implemented pursuant to ORS 240.190 does not affect police officer status.
- 21 (r) Employees of a school district who are appointed and duly sworn members of a law
22 enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as
23 police officers commissioned by the district.
- 24 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
25 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
26 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
27 Department of Corrections or the Oregon Youth Authority.
- 28 (t) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-
29 scription involves the custody, control, treatment, investigation or supervision of juveniles placed
30 in such facilities.
- 31 (u) Employees of the Oregon Youth Authority who are classified as juvenile parole and pro-
32 bation officers.
- 33 (v) Employees of the Department of Human Services who are prohibited from striking under ORS
34 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS
35 443.400, that house individuals with intellectual or developmental disabilities.
- 36 (20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)
37 to (6) (1999 Edition).
- 38 (21) "Public employer" means the state, one of its agencies, any city, county, or municipal or
39 public corporation, any political subdivision of the state or any instrumentality thereof, or an agency
40 created by one or more such governmental organizations to provide governmental services. For
41 purposes of this chapter, such agency created by one or more governmental organizations is a gov-
42 ernmental instrumentality and a legal entity with power to enter into contracts, hold property and
43 sue and be sued.
- 44 (22) "Qualifying position" means one or more jobs with one or more participating public em-
45 ployers in which an employee performs 600 or more hours of service in a calendar year, excluding

1 any service in a job for which a participating public employer does not provide benefits under this
2 chapter pursuant to an application made under ORS 238.035.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (L) Compensation described and authorized under ORS 353.270 that is not paid by Oregon Health
45 and Science University[.]; **or**

1 **(M) For years beginning on or after January 1, 2020, any amount in excess of \$100,000 for**
 2 **a calendar year. If any period over which salary is determined is less than 12 months, the**
 3 **\$100,000 limitation for that period shall be multiplied by a fraction, the numerator of which**
 4 **is the number of months in the determination period and the denominator of which is 12.**

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

6 (28) “System” means the Public Employees Retirement System.

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

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

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

12 **SECTION 10.** ORS 238A.005, as amended by section 5, chapter 54, Oregon Laws 2018, and sec-
 13 tion 2, chapter 101, Oregon Laws 2018, is amended to read:

14 238A.005. For the purposes of this chapter:

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

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

20 (3) “Board” means the Public Employees Retirement Board.

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

23 (a) Persons engaged as independent contractors;

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

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

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

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

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

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

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

34 (i) Persons employed in positions classified as post-doctoral scholar positions by a public uni-
 35 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370;

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

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

42 (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 unemployment compensation laws.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit
6 plan by the employer at the election of the employee and that is not includable in the taxable in-
7 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2017.

8 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the
9 election of the employee and that is not included in the taxable income of the employee by reason
10 of 26 U.S.C. 402(e)(3), as in effect on December 31, 2017.

11 (E) Retroactive payments described in ORS 238.008.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (L) **For years before 2020**, any amount in excess of \$200,000 for a calendar year. If any period
44 over which salary is determined is less than 12 months, the \$200,000 limitation for that period shall
45 be multiplied by a fraction, the numerator of which is the number of months in the determination

1 period and the denominator of which is 12. The board shall adopt rules adjusting this dollar limit
2 to incorporate cost-of-living adjustments authorized by the Internal Revenue Service.

3 **(M) For years beginning on or after January 1, 2020, any amount in excess of \$100,000 for**
4 **a calendar year. If any period over which salary is determined is less than 12 months, the**
5 **\$100,000 limitation for that period shall be multiplied by a fraction, the numerator of which**
6 **is the number of months in the determination period and the denominator of which is 12.**

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

8 (19) "Workers' compensation benefits" means:

9 (a) Payments made under ORS chapter 656; or

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

11 **SECTION 11.** ORS 238.435 is amended to read:

12 238.435. (1) Notwithstanding the definition of "salary" or "other advantages" provided by ORS
13 238.005, for the purpose of calculating the retirement allowance of a person who establishes mem-
14 bership in the system on or after January 1, 1996, as described in ORS 238.430, the Public Employees
15 Retirement Board shall not include any lump sum payment for accrued vacation pay made to the
16 member during [*the last 36 calendar months of membership before the effective date of retirement of the*
17 *member, or during any period of time taken into account for purposes of determining the three years*
18 *in which the member was paid the highest salary for the purposes of*] **any period of time taken into**
19 **account in** determining the member's final average salary.

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

25 (a) The average salary per calendar year paid to a public employee who is an active member
26 of the system in three of the calendar years of membership before the effective date of retirement
27 of the employee **and before January 1, 2020**, in which three years the employee was paid the
28 highest salary. The three calendar years in which the employee was paid the largest total salary
29 may include calendar years in which the employee was employed for less than a full calendar year.
30 If the number of calendar years of active membership before the effective date of retirement of the
31 employee is three or less, the final average salary for the employee is the average salary per cal-
32 endar year paid to the public employee in all of those years, without regard to whether the employee
33 was employed for full calendar years.

34 **(b) The average salary per calendar year paid to a public employee who is an active**
35 **member of the system in five of the calendar years of membership before the effective date**
36 **of retirement of the employee, in which five years the employee was paid the highest salary.**
37 **The five calendar years in which the employee was paid the largest total salary may include**
38 **calendar years in which the employee was employed for less than a full calendar year. If the**
39 **number of calendar years of active membership before the effective date of retirement of the**
40 **employee is five or less, the final average salary for the employee is the average salary per**
41 **calendar year paid to the public employee in all of those years, without regard to whether**
42 **the employee was employed for full calendar years.**

43 [(b)] (c) One-third of the total salary paid to a public employee who is an active member of the
44 system in the last 36 calendar months of membership before the effective date of retirement of the
45 employee **and before January 1, 2020.**

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

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

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

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

11 (c) Exclude any salary for any pay period before the first full pay period that is included in the
 12 last 36 calendar months of membership under subsection [(2)(b)] **(2)(c)** of this section **or the last**
 13 **60 calendar months of membership under subsection (2)(d) of this section.**

14 (4) Notwithstanding the definition of “final average salary” provided by ORS 238.005, for the
 15 purpose of calculating the retirement allowance of a person who establishes membership in the
 16 system on or after January 1, 1996, as described in ORS 238.430, and who is employed by a local
 17 government as defined in ORS 174.116, the term “final average salary” means whichever of the fol-
 18 lowing is greater:

19 (a) The average salary per calendar year earned by a public employee who is an active member
 20 of the system in three of the calendar years of membership before the effective date of retirement
 21 of the employee **and before January 1, 2020**, in which three years the employee earned the highest
 22 salary. The three calendar years in which the employee earned the largest total salary may include
 23 calendar years in which the employee was employed for less than a full calendar year. If the number
 24 of calendar years of active membership before the effective date of retirement of the employee is
 25 three or less, the final average salary for the employee is the average salary per calendar year
 26 earned by the public employee in all of those years, without regard to whether the employee was
 27 employed for full calendar years.

28 **(b) The average salary per calendar year earned by a public employee who is an active**
 29 **member of the system in five of the calendar years of membership before the effective date**
 30 **of retirement of the employee, in which five years the employee earned the highest salary.**
 31 **The five calendar years in which the employee earned the largest total salary may include**
 32 **calendar years in which the employee was employed for less than a full calendar year. If the**
 33 **number of calendar years of active membership before the effective date of retirement of the**
 34 **employee is five or less, the final average salary for the employee is the average salary per**
 35 **calendar year earned by the public employee in all of those years, without regard to whether**
 36 **the employee was employed for full calendar years.**

37 [(b)] (c) One-third of the total salary earned by a public employee who is an active member of
 38 the system in the last 36 calendar months of membership before the effective date of retirement of
 39 the employee **and before January 1, 2020.**

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

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

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

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

5 **SECTION 12.** ORS 238A.130 is amended to read:

6 238A.130. (1) Except as provided in subsection (3) of this section, for purposes of the computa-
7 tion of pension program benefits under ORS 238A.125, “final average salary” means whichever of the
8 following is greater:

9 (a) The average salary per calendar year paid to an active member in the three consecutive
10 calendar years of membership **before January 1, 2020**, that produce the highest average salary,
11 including calendar years in which the member was employed for less than a full calendar year. If
12 the number of consecutive calendar years of active membership before the effective date of retire-
13 ment of the member is three or less, the final average salary for the member is the average salary
14 per calendar year paid to the member in all of those years, without regard to whether the member
15 was employed for full calendar years.

16 **(b) The average salary per calendar year paid to an active member in the five consecutive**
17 **calendar years of membership that produce the highest average salary, including calendar**
18 **years in which the member was employed for less than a full calendar year. If the number**
19 **of consecutive calendar years of active membership before the effective date of retirement**
20 **of the member is five or less, the final average salary for the member is the average salary**
21 **per calendar year paid to the member in all of those years, without regard to whether the**
22 **member was employed for full calendar years.**

23 [(b)] (c) One-third of the total salary paid to an active member in the last 36 calendar months
24 of membership before the effective date of retirement of the member **and before January 1, 2020**.

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

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

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

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

33 (c) Exclude any salary for any pay period before the first full pay period that is included in the
34 last 36 calendar months of membership under subsection [(1)(b)] (1)(c) of this section **or the last**
35 **60 calendar months of membership under subsection (1)(d) of this section.**

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

39 (a) The average salary per calendar year earned by an active member in the three consecutive
40 calendar years of membership **before January 1, 2020**, that produce the highest average salary,
41 including calendar years in which the member was employed for less than a full calendar year. If
42 the number of consecutive calendar years of active membership before the effective date of retire-
43 ment of the member is three or less, the final average salary for the member is the average salary
44 per calendar year earned by the member in all of those years, without regard to whether the mem-
45 ber was employed for full calendar years.

1 **(b) The average salary per calendar year earned by an active member in the five consecutive calendar years of membership that produce the highest average salary, including**
 2 **calendar years in which the member was employed for less than a full calendar year. If the**
 3 **number of consecutive calendar years of active membership before the effective date of re-**
 4 **tirement of the member is five or less, the final average salary for the member is the aver-**
 5 **age salary per calendar year earned by the member in all of those years, without regard to**
 6 **whether the member was employed for full calendar years.**

8 [(b)] (c) One-third of the total salary earned by an active member in the last 36 calendar months
 9 of membership before the effective date of retirement of the member **and before January 1, 2020.**

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

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

14 (a) Any amounts attributable to hours of overtime that exceed the average number of hours of
 15 overtime for the same class of employees as established by rule of the Public Employees Retirement
 16 Board. The Oregon Department of Administrative Services shall establish by rule more than one
 17 overtime average for a class of state employees based on the geographic placement of the employees.

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

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

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

24 **SECTION 13.** ORS 238.350 is amended to read:

25 238.350. (1)(a) Upon the request by a public employer that its employees be compensated for
 26 accumulated unused sick leave with pay in the form of increased retirement benefits upon service
 27 or disability retirement, the board shall establish a procedure for adding to the gross amount of
 28 salary used in determining final average salary the monetary value of one-half of the accumulated
 29 unused sick leave with pay of each retiring employee of the requesting public employer and shall
 30 establish benefits of the retiring employee on the basis of a final average salary reflecting that ad-
 31 dition.

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

42 (c) For the purpose of this subsection, accumulated unused sick leave with pay includes unused
 43 sick leave with pay accumulated by an active member of the system while in the service of any
 44 public employer participating in the system that has the request described in paragraph (a) of this
 45 subsection in effect at the time of the member's separation from the service of the employer, whether

1 that employer is or is not the employer of the member at the time of the member's retirement.

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

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

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

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

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

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

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

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

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

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

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

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

5 (b) Upon the request of a retiring legislative employee who is a member of the system, and the
 6 request of the public employer of the legislative employee, that the legislative employee be com-
 7 pensated for accumulated unused vacation with pay for periods of legislative employment in the form
 8 of increased retirement benefits upon service or disability retirement, the board shall add to the
 9 gross amount of salary used in determining final average salary of the legislative employee the
 10 monetary value of one-half of the accumulated unused vacation with pay of the legislative employee
 11 and shall establish the benefits of the legislative employee on the basis of a final average salary
 12 reflecting that addition.

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

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

17 (B) Amounts of vacation exceeding amounts creditable to employees in the classified service of
 18 the state service pursuant to ORS 240.515 (1), and rules adopted pursuant thereto, in effect on June
 19 30, 1981, shall not be considered.

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

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

30 **SECTION 14.** ORS 238.580 is amended to read:

31 238.580. (1) **Except as provided in subsection (3) of this section,** ORS 238.005 (4) and (26),
 32 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250, 238.255, 238.260, 238.350, 238.364, 238.410,
 33 238.415, 238.420, 238.445, 238.458, 238.460, 238.465, 238.475, 238.600, 238.605, 238.610, 238.618, 238.630,
 34 238.635, 238.645, 238.650, 238.655, 238.660, 238.665, 238.670 and 238.705 and the increases provided
 35 by ORS 238.366 for members of the system who are serving as other than police officers or fire-
 36 fighters apply in respect to service as a judge member.

37 (2) This chapter applies in respect to persons described in ORS 238.505 (1) and in respect to
 38 service as a judge member only as specifically provided in ORS 238.500 to 238.585.

39 **(3) ORS 238.005 (26)(c)(M) does not apply in respect to service as a judge member.**

40
 41 **PENSION FACTOR**

42
 43 **SECTION 15.** ORS 238.300 is amended to read:

44 238.300. Upon retiring from service at normal retirement age or thereafter, a member of the
 45 system shall receive a service retirement allowance which shall consist of the following annuity and

1 pensions:

2 (1) A refund annuity which shall be the actuarial equivalent of accumulated contributions, if
 3 any, by the member and interest thereon credited at the time of retirement, which annuity shall
 4 provide an allowance payable during the life of the member and at death a lump sum equal in
 5 amount to the difference between accumulated contributions at the time of retirement and the sum
 6 of the annuity payments actually made to the member during life shall be paid to such person, if any,
 7 as the member nominates by written designation duly acknowledged and filed with the board or shall
 8 otherwise be paid according to the provisions of this chapter for disposal of an amount credited to
 9 the member account of a member at the time of death in the event the member designates no ben-
 10 eficiary to receive the amount or no such beneficiary is able to receive the amount. If death of the
 11 member occurs before the first payment is due, the member account of the member shall be treated
 12 as though death had occurred before retirement.

13 (2)(a) A life pension (nonrefund) for current service provided by the contributions of employers,
 14 which pension, subject to paragraph (b) of this subsection, shall be an amount which, when added
 15 to the sum of the annuity, if any, under subsection (1) of this section and the annuity, if any, pro-
 16 vided on the same basis and payable from the Variable Annuity Account, both annuities considered
 17 on a refund basis, results in a total of:

18 (A) For service as a police officer or firefighter, two percent of final average salary multiplied
 19 by the number of years of membership in the system as a police officer or firefighter before the ef-
 20 fective date of retirement.

21 (B) For service as other than a police officer or firefighter, including service as a member of the
 22 Legislative Assembly[,]:

23 (i) 1.67 percent of final average salary multiplied by the number of years of membership in the
 24 system as other than a police officer or firefighter before the effective date of retirement[.] **and**
 25 **before January 1, 2020; and**

26 (ii) **1.2 percent of final average salary multiplied by the number of years of membership**
 27 **in the system as other than a police officer or firefighter before the effective date of retire-**
 28 **ment and on and after January 1, 2020.**

29 (b) A pension under this subsection shall be at least:

30 (A) For a member who first establishes membership in the system before July 1, 2003, the
 31 actuarial equivalent of the annuity provided by the accumulated contributions of the member. A
 32 person establishes membership in the system before July 1, 2003, for the purposes of this subpara-
 33 graph if:

34 (i) The person is a member of the system, or a judge member of the system, on the day imme-
 35 diately before July 1, 2003; or

36 (ii) The person performed any period of service for a participating public employer before July
 37 1, 2003, that is credited to the six-month period of employment required of an employee under ORS
 38 238.015 before an employee may become a member of the system.

39 (B) For a member who made contributions before August 21, 1981, the equivalent of a pension
 40 computed pursuant to this subsection as it existed immediately before that date.

41 (c) As used in this subsection, "number of years of membership" means the number of full years
 42 of creditable service plus any remaining fraction of a year of creditable service. Except as other-
 43 wise provided in this paragraph, in determining a remaining fraction a full month shall be consid-
 44 ered as one-twelfth of a year and a major fraction of a month shall be considered as a full month.
 45 Membership of a school district employee, an employee of an institution of higher education engaged

1 in teaching or other school activity or an employee of the Department of Human Services, the
 2 Oregon Youth Authority, the Department of Corrections or the State Board of Education engaged
 3 in teaching or other school activity at an institution supervised by the authority, board or depart-
 4 ment, for all portions of a school year in a calendar year in which the district school, institution
 5 of higher education or school activity at an institution so supervised in which the member is em-
 6 ployed is normally in session shall be considered as a full one-half year of membership. The number
 7 of years of membership of a member who received a refund of contributions as provided in ORS
 8 237.976 (2) is limited to the number of years after the day before the date on which the refund was
 9 received. The number of years of membership of a member who is separated, for any reason other
 10 than death or disability, from all service entitling the member to membership in the system, who
 11 withdraws the amount credited to the member account of the member in the fund during absence
 12 from such service and who thereafter reenters the service of an employer participating in the system
 13 but does not repay the amount so withdrawn as provided in this chapter, is limited to the number
 14 of years after the day before the date of so reentering.

15 (3) An additional life pension (nonrefund) for prior service credit, including military service,
 16 credited to the member at the time of first becoming a member of the system, as elsewhere provided
 17 in this chapter, which pension shall be provided by the contributions of the employer.

18 **SECTION 16.** ORS 238A.125, as amended by section 3, chapter 101, Oregon Laws 2018, is
 19 amended to read:

20 238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall
 21 be paid an annual pension for the life of the member as follows:

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

24 (b) For service as other than a police officer or firefighter, **a total of:**

25 (i) 1.5 percent of final average salary multiplied by the number of years of retirement credit
 26 attributable to service as other than a police officer or firefighter[.] **before January 1, 2020; and**

27 (ii) **One percent of final average salary multiplied by the number of years of retirement**
 28 **credit attributable to service as other than a police officer or firefighter on and after Janu-**
 29 **ary 1, 2020.**

30 (2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the annual benefit payable to
 31 a member under the pension program and under any other tax-qualified defined benefit plan main-
 32 tained by the participating public employer may not exceed the applicable limitations set forth in
 33 26 U.S.C. 415(b), as in effect on December 31, 2017. The Public Employees Retirement Board shall
 34 adopt rules for the administration of this limitation, including adjustments in the annual dollar lim-
 35 itation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

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

38 RECALCULATION OF EMPLOYER RATES

39
 40
 41 **SECTION 17.** (1) **As soon as practicable after the effective date of this 2019 Act, the**
 42 **Public Employees Retirement Board shall:**

43 (a) **Determine the amount of savings in employer contributions that are attributable to**
 44 **the provisions of this 2019 Act; and**

45 (b) **Recalculate the contribution rates of all employers, pursuant to ORS 238.225, to re-**

1 flect the provisions of this 2019 Act.

2 (2) The board shall issue corrected contribution rate orders to employers affected by
 3 rates recalculated under this section as soon as is practicable after the effective date of this
 4 2019 Act. The corrected rates are effective July 1, 2019.

5
 6 REVIEW BY SUPREME COURT
 7

8 SECTION 18. (1) Jurisdiction is conferred upon the Supreme Court to determine in the
 9 manner provided by this section whether this 2019 Act breaches any contract between
 10 members of the Public Employees Retirement System and their employers or violates any
 11 provision of the Oregon Constitution or of the United States Constitution, including but not
 12 limited to impairment of contract rights of members of the Public Employees Retirement
 13 System under Article I, section 21, of the Oregon Constitution, or Article I, section 10, clause
 14 1, of the United States Constitution.

15 (2) A person who is adversely affected by this 2019 Act or who will be adversely affected
 16 by this 2019 Act may institute a proceeding for review by filing with the Supreme Court a
 17 petition that meets the following requirements:

18 (a) The petition must be filed within 60 days after the effective date of this 2019 Act.

19 (b) The petition must include the following:

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

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

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

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

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

29 (6)(a) The Supreme Court shall allow members of the Legislative Assembly to intervene
 30 in any proceeding relating to this 2019 Act. After a member intervenes in a proceeding re-
 31 lating to this 2019 Act, the member has standing to participate in the proceeding even if the
 32 member ceases to be a member of the Legislative Assembly.

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

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

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

41
 42 CAPTIONS
 43

44 SECTION 19. The unit captions used in this 2019 Act are provided only for the conven-
 45 ience of the reader and do not become part of the statutory law of this state or express any

1 legislative intent in the enactment of this 2019 Act.

2

3

EMERGENCY CLAUSE

4

5 **SECTION 20.** This 2019 Act being necessary for the immediate preservation of the public
6 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
7 on its passage.

8
