

# D R A F T

## SUMMARY

Modifies provisions relating to employee contributions of members of Public Employees Retirement System.

Excludes certain unused leave and amounts from definition of salary for purposes of calculation of benefits under Public Employees Retirement System.

Directs Public Employees Retirement Board to use assumed interest rate published by federal Pension Benefit Guaranty Corporation in formulating actuarial equivalency factor tables for purpose of computing payments to members of Public Employees Retirement System.

Establishes Fair Retirement Plan for persons hired on or after January 1, 2017, who have not established membership in Public Employees Retirement System before January 1, 2017.

Continuously appropriates funds collected pursuant to charge to board for costs of administration of Fair Retirement Plan.

Directs 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 106.340, 169.810, 173.051, 192.502, 196.165, 237.620, 237.650, 238.005, 238.105, 238.115, 238.265, 238.350, 238.445, 238.447, 238.455, 238.460, 238.465, 238.607, 238.630, 238.645, 238.650, 238.700, 238.705, 238.715, 238A.005, 238A.320, 238A.330, 238A.335, 243.800, 243.830, 268.240, 338.135, 341.290, 341.551, 350.355, 352.129, 352.138, 353.117, 377.836, 396.330, 410.614, 576.306 and 777.775; repealing ORS 238.750; and declaring an emergency.

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

## EMPLOYEE CONTRIBUTIONS

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

238A.330. (1)(a) A member of the individual account program **who did not establish membership in the Public Employees Retirement System before August 29, 2003, as described in ORS 238A.025 (4),** must make employee contributions to the individual account program of six percent of the member's salary.

[(2)] (b) Employee contributions made by a member of the individual account program under this [section] **subsection** shall be credited by the **Public Employees Retirement** Board to the employee account established for the member under ORS 238A.350 (2).

**(2) A member of the Public Employees Retirement System who established membership in the system before August 29, 2003, as described in ORS 238A.025 (4), must make employee contributions totaling six percent of the member's salary. Employee contributions made under this subsection shall be credited by the board to the employee 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.335 is amended to read:

238A.335. (1) A participating public employer may agree, by a written employment policy or by a collective bargaining agreement, to pay **all or part of** the employee [contribution] **contributions** required under ORS 238A.330. *[The policy or agreement need not include all members of the individual account program employed by the employer.]* **The amount of the employee contributions that is paid by the employer must be equal to a**

percentage of the member's salary that is not less than one percent and not greater than six percent, and the percentage must be a whole number. The employer may enter into an agreement under this section with all or some of the employees employed by the employer.

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

(a) **Amounts be deducted from** employee compensation *[be reduced]* to generate the funds needed to make *[the]* employee contributions; *[or]*

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

(c) **Amounts be deducted from employee compensation under paragraph (a) of this subsection to generate the funds needed to make a portion of the employee contributions and that additional amounts be paid by the employer under paragraph (b) of this subsection to generate the funds needed to make a portion of the employee contributions.**

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

(4) **An agreement under this section may not have a duration longer than five years, but may be renewed.**

**SECTION 3. Sections 4 and 5 of this 2016 Act are added to and made**

a part of ORS chapter 238A.

**SECTION 4. Accounts for Tier 1 and 2 members established.** (1) The Public Employees Retirement Board shall establish an account for each active member of the Public Employees Retirement System who established membership in the system before August 29, 2003, as described in ORS 238A.025 (4).

(2) Each account established under this section shall be adjusted at least annually in accordance with rules adopted by the board to reflect any net earnings or losses on contributions to the account. The adjustments described in this subsection shall continue until the account is withdrawn or applied against the costs of the pension or other retirement benefits payable to the member.

(3) Unless the amounts in an account established under this section are withdrawn under section 5 of this 2016 Act, the amounts in the account shall be applied by the board to pay the costs of the pension payable to or on behalf of the member.

**SECTION 5. Withdrawal.** (1) An inactive member may elect to receive a distribution of the amounts in the member's account established under section 4 of this 2016 Act if the inactive member is not employed by a participating public employer or by an employer who is treated as part of a participating public employer's controlled group under the federal laws and rules governing the status of the Public Employees Retirement System and the Public Employees Retirement Fund as a qualified governmental retirement plan and trust.

(2) A member who is eligible to withdraw the member's member account under ORS 238.265 may make an election under this section only if the member also withdraws the member account under ORS 238.265.

**SECTION 6.** ORS 238A.320 is amended to read:

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

on the date the employee account is established.

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

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

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

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

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

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

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

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

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

(6) Solely for purposes of determining whether a member is vested under

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

**(7) A member becomes vested in the account established for the member under section 4 of this 2016 Act on the date the account is established.**

**SECTION 7. The amendments to ORS 238A.005, 238A.330 and 238A.335 by sections 1, 2 and 9 of this 2016 Act do not apply to a collective bargaining agreement entered into before the effective date of this 2016 Act. Any collective bargaining agreement entered into on or after the effective date of this 2016 Act must be in conformance with ORS 238A.005, 238A.330 and 238A.335, as amended by sections 1, 2 and 9 of this 2016 Act.**

## **DEFINITION OF "SALARY"**

**SECTION 8.** ORS 238.005 is amended to read:

238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

16 (7) "Earliest service retirement age" means the age attained by a member  
17 when the member could first make application for retirement under the pro-  
18 visions of ORS 238.280.

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

21 (a) Persons engaged as independent contractors.

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

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

28 (d) Persons employed and paid from federal funds received under a federal  
29 program intended primarily to alleviate unemployment. However, any such  
30 person shall be considered an "employee" if not otherwise excluded by para-  
31 graphs (a) to (c) of this subsection and the public employer elects to have

1 the person so considered by an irrevocable written notice to the board.

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

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

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

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

23 (10) "Firefighter" does not include a volunteer firefighter, but does in-  
24 clude:

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

27 (b) An employee of the State Forestry Department who is certified by the  
28 State Forester as a professional wildland firefighter and whose primary du-  
29 ties include the abatement of uncontrolled fires as described in ORS 477.064.

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



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

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

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

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

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

(17) "Normal retirement age" means:

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

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

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

(19) "Police officer" includes:

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

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

3 (c) Employees of the Oregon Liquor Control Commission who are classi-  
4 fied as regulatory specialists by the administrator of the commission.

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

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

10 (f) Police officers who are commissioned by a university under ORS  
11 352.121 or 353.125 and who are classified as police officers by the university.

12 (g) Parole and probation officers employed by the Department of Cor-  
13 rections, parole and probation officers who are transferred to county em-  
14 ployment under ORS 423.549 and adult parole and probation officers, as  
15 defined in ORS 181A.355, who are classified as police officers for the pur-  
16 poses of this chapter by the county governing body. If a county classifies  
17 adult parole and probation officers as police officers for the purposes of this  
18 chapter, and the employees so classified are represented by a labor organ-  
19 ization, any proposal by the county to change that classification or to cease  
20 to classify adult parole and probation officers as police officers for the pur-  
21 poses of this chapter is a mandatory subject of bargaining.

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

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

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

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

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

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

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

(o) The Director of the Department of Corrections.

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

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

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

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

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

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

(v) Employees of the Department of Human Services who are prohibited from striking under ORS 243.726 and whose duties include the care of resi-

dents of residential facilities, as defined in ORS 443.400, that house individuals with intellectual or developmental disabilities.

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

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

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

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

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

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

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

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

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

(B) The amount of participation in a tax-sheltered or deferred annuity,

1 which is deemed salary paid in each month of participation;

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

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

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

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

8 (B) Payments for insurance coverage by an employer on behalf of em-  
9 ployee or employee and dependents, for which the employee has no cash op-  
10 tion;

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

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

13 (E) Any accelerated payment of an employment contract for a future pe-  
14 riod or an advance against future wages;

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

17 (G) Payments for periods of leave of absence after the date the employer  
18 and employee have agreed that no future services qualifying pursuant to ORS  
19 238.015 (3) will be performed, except for sick leave and vacation **accrued**  
20 **before the effective date of this 2016 Act**;

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

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

28 **(J) Any lump sum payment for accumulated unused vacation leave**  
29 **or other unused paid leave accrued on or after the effective date of**  
30 **this 2016 Act; or**

31 **(K)(a) For a member who is not a police officer or firefighter, any**

1 amount in excess of \$100,000 for a calendar year. If any period over  
2 which salary is determined is less than 12 months, the \$100,000 limita-  
3 tion for that period shall be multiplied by a fraction, the numerator  
4 of which is the number of months in the determination period and the  
5 denominator of which is 12.

6 (b) For a member who is a police officer or a firefighter, any  
7 amount in excess of limitations on contributions under the Internal  
8 Revenue Code.

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

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

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

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

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

18 **SECTION 9.** ORS 238A.005 is amended to read:

19 238A.005. For the purposes of this chapter:

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

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

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

27 (4) "Eligible employee" means a person who performs services for a par-  
28 ticipating public employer, including elected officials other than judges.  
29 "Eligible employee" does not include:

30 (a) Persons engaged as independent contractors;

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

1 (c) Persons provided sheltered employment or make-work by a public em-  
2 ployer;

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

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

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

9 (g) An employee actively participating in an alternative retirement pro-  
10 gram established under ORS 353.250 or an optional retirement plan estab-  
11 lished under ORS 341.551;

12 (h) Employees of a public university listed in ORS 352.002 who are ac-  
13 tively participating in an optional retirement plan offered under ORS 243.800;

14 (i) Any employee who belongs to a class of employees that was not eligi-  
15 ble on August 28, 2003, for membership in the system under the provisions  
16 of ORS chapter 238 or other law;

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

20 (k) Any person who is retired under ORS 238A.100 to 238A.250 or ORS  
21 chapter 238 and who continues to receive retirement benefits while employed;  
22 and

23 (L) Judges.

24 (5) "Firefighter" means:

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

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

29 (c) An employee of the State Forestry Department who is certified by the  
30 State Forester as a professional wildland firefighter and whose primary du-  
31 ties include the abatement of uncontrolled fires as described in ORS 477.064.

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

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

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

6 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military  
7 duty or authorized leave during which an employee does not perform duties  
8 but for which the employee is directly or indirectly paid or entitled to pay-  
9 ment by a participating public employer for services in a qualifying position,  
10 as long as the hour is within the number of hours regularly scheduled for  
11 the performance of duties during the period of vacation, holiday, illness, in-  
12 capacity, jury duty, military duty or authorized leave.

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

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

21 (9) "Individual account program" means the defined contribution individ-  
22 ual account program of the Oregon Public Service Retirement Plan estab-  
23 lished under ORS 238A.025.

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

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

31 (12) "Participating public employer" means a public employer as defined



1 in ORS 238.005 that provides retirement benefits for employees of the public  
2 employer under the system.

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

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

6 (15) "Qualifying position" means one or more jobs with one or more par-  
7 ticipating public employers in which an eligible employee performs 600 or  
8 more hours of service in a calendar year, excluding any service in a job for  
9 which benefits are not provided under the Oregon Public Service Retirement  
10 Plan pursuant to ORS 238A.070 (2).

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

13 (17)(a) "Salary" means the remuneration paid to an active member in re-  
14 turn for services to the participating public employer, including  
15 remuneration in the form of living quarters, board or other items of value,  
16 to the extent the remuneration is includable in the employee's taxable in-  
17 come under Oregon law. "Salary" includes the additional amounts specified  
18 in paragraph (b) of this subsection, but does not include the amounts speci-  
19 fied in paragraph (c) of this subsection, regardless of whether those amounts  
20 are includable in taxable income.

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

22 (A) Payments of employee and employer money into a deferred compen-  
23 sation plan that are made at the election of the employee.

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

26 (C) Any amount that is contributed to a cafeteria plan or qualified  
27 transportation fringe benefit plan by the employer at the election of the  
28 employee and that is not includable in the taxable income of the employee  
29 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2014.

30 (D) Any amount that is contributed to a cash or deferred arrangement by  
31 the employer at the election of the employee and that is not included in the

1 taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in effect  
2 on December 31, 2014.

3 (E) Retroactive payments described in ORS 238.008.

4 (F) The amount of an employee contribution to the individual account  
5 program **or to the account established under section 4 of this 2016 Act**  
6 that is paid by the employer and deducted from the compensation of the  
7 employee, as provided under ORS 238A.335 (1) and (2)(a).

8 (G) The amount of an employee contribution to the individual account  
9 program **or to the account established under section 4 of this 2016 Act**  
10 that is not paid by the employer under ORS 238A.335.

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

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

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

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

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

19 (D) Any severance payment, accelerated payment of an employment con-  
20 tract for a future period or advance against future wages.

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

23 (F) Payment for a leave of absence after the date the employer and em-  
24 ployee have agreed that no future services in a qualifying position will be  
25 performed.

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

31 (H) The amount of an employee contribution to the individual account

program **or to the account established under section 4 of this 2016 Act** that is paid by the employer and is not deducted from the compensation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

(I)(a) **For a member who is not a police officer or firefighter**, any amount in excess of ~~[\$200,000]~~ **\$100,000** for a calendar year. If any period over which salary is determined is less than 12 months, the ~~[\$200,000]~~ **\$100,000** limitation for that period shall be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12. *[The board shall adopt rules adjusting this dollar limit to incorporate cost-of-living adjustments authorized by the Internal Revenue Service.]*

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

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

**SECTION 10.** The amendments to ORS 238.005 and 238A.005 by sections 8 and 9 of this 2016 Act apply only to:

(1) **Amounts paid on and after the effective date of this 2016 Act; and**

(2) **Members of the Public Employees Retirement System whose effective date of retirement is on or after the effective date of this 2016 Act.**

## USE OF UNUSED LEAVE

**SECTION 11.** ORS 238.350 is amended to read:

1       238.350. (1)(a) Upon the request by a public employer that its employees  
2 be compensated for accumulated unused sick leave with pay in the form of  
3 increased retirement benefits upon service or disability retirement, the board  
4 shall establish a procedure for adding to the gross amount of salary used in  
5 determining final average salary the monetary value of one-half of the ac-  
6 cumulated unused sick leave with pay of each retiring employee of the re-  
7 questing public employer and shall establish benefits of the retiring employee  
8 on the basis of a final average salary reflecting that addition.

9       (b) For employees of a common school district, a union high school dis-  
10 trict, an education service district or an institution of higher education en-  
11 gaged in teaching or other school activity, or employees of the school  
12 operated under ORS 346.010 engaged in teaching or other school activity,  
13 who are employed under contract for a period of less than 12 consecutive  
14 months and who are entitled to sick leave with pay of less than 96 hours for  
15 a year, each hour of accumulated unused sick leave with pay shall be valued  
16 on the basis of the actual number of contract hours of employment during  
17 the last year of contributing membership of an employee before retiring and  
18 the salary of the employee during the same period. This paragraph does not  
19 apply to any employee who is employed under contract for 12 consecutive  
20 months in any of the three or less years used in determining the final aver-  
21 age salary of the employee.

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

29       (d) The board shall establish rules requiring all public employers partic-  
30 ipating in the system to transmit to the board reports of unused sick leave  
31 with pay accumulated by their employees who are members of the system and

1 to provide timely notification to each of those employees of unused sick leave  
2 with pay accumulated by the employee and reported to the board.

3 (2) Accumulated unused sick leave with pay may be considered for the  
4 purpose of subsection (1) of this section only in accordance with the follow-  
5 ing requirements:

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

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

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

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

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

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

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

30 (B) Where the public employer provided sick leave before July 1, 1973, but  
31 formal records of accumulation and use were not required or if required, are

1 unavailable or incomplete, or the sick leave was subject to administrative  
2 limitations on total accumulation or transfer between public employers, ac-  
3 cumulated unused sick leave for periods before July 1, 1973, may be consid-  
4 ered as equal to 2.675 hours for each full month worked or an amount per  
5 month equal to the average monthly accumulation by an employee during the  
6 period beginning July 1, 1973, and ending at the time of retirement, which-  
7 ever amount is greater, but reduced by the amount of any accumulated un-  
8 used sick leave credited to the employee on July 1, 1973.

9 (g) The written certification of a member or former member of the Leg-  
10 islative Assembly shall constitute a formal record of accumulation and use  
11 in determining the amount of accumulated unused sick leave of an employee  
12 of the Legislative Assembly, either of its houses or any of its committees or  
13 officers for periods of employment before July 1, 1981. Sick leave accumu-  
14 lated on and after July 1, 1981, by employees of the Legislative Assembly,  
15 either of its houses or any of its committees or officers may be considered  
16 only to the extent it is supported by records of accumulation and use main-  
17 tained by the Legislative Administration Committee, or any statutory,  
18 standing, special or interim committee of the Legislative Assembly or either  
19 house thereof, or any constitutional or statutory office of the Legislative  
20 Assembly or either house thereof, pursuant to a plan adopted formally by the  
21 committee or officer.

22 **(h) Accumulated unused sick leave for periods on and after the ef-**  
23 **fective date of this 2016 Act may not be considered.**

24 (3)(a) As used in this subsection, "legislative employee" means any person  
25 employed by the Legislative Assembly, either of its houses or any of its  
26 committees or officers, but does not include a regular employee of a statutory  
27 committee or statutory office of the Legislative Assembly described in ORS  
28 173.005 (1).

29 (b) Upon the request of a retiring legislative employee who is a member  
30 of the system, and the request of the public employer of the legislative em-  
31 ployee, that the legislative employee be compensated for accumulated unused

1 vacation with pay for periods of legislative employment in the form of in-  
2 creased retirement benefits upon service or disability retirement, the board  
3 shall add to the gross amount of salary used in determining final average  
4 salary of the legislative employee the monetary value of one-half of the ac-  
5 cumulated unused vacation with pay of the legislative employee and shall  
6 establish the benefits of the legislative employee on the basis of a final av-  
7 erage salary reflecting that addition.

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

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

13 (B) Amounts of vacation exceeding amounts creditable to employees in  
14 the classified service of the state service pursuant to ORS 240.515 (1), and  
15 rules adopted pursuant thereto, in effect on June 30, 1981, shall not be con-  
16 sidered.

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

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

30 **SECTION 12. Section 13 of this 2016 Act is added to and made a part**  
31 **of ORS chapter 238.**

1     **SECTION 13. A participating public employer shall require an em-**  
2     **ployee who established membership in the Public Employees Retire-**  
3     **ment System before August 29, 2003:**

4         **(1) To use sick leave accumulated before the effective date of this**  
5     **2016 Act before using sick leave accumulated on and after the effective**  
6     **date of this 2016 Act.**

7         **(2) To use vacation leave accumulated before the effective date of**  
8     **this 2016 Act before using vacation leave accumulated on and after the**  
9     **effective date of this 2016 Act.**

10  
11                     **ASSUMED INTEREST RATE**  
12

13     **SECTION 14. ORS 238.607 is amended to read:**

14         238.607. (1) **As often as is necessary to maintain actuarial equiv-**  
15     **alence, and no less than** once every two calendar years, the Public Em-  
16     ployees Retirement Board shall adopt actuarial equivalency factor tables for  
17     the purpose of computing the payments to be made to members and their  
18     beneficiaries, alternate payees and judge members and their spouses and  
19     beneficiaries. The tables may be adopted in conjunction with the system  
20     evaluation required by ORS 238.605. Tables adopted under this section must  
21     use the best actuarial information on mortality available at the time the  
22     board adopts the tables, as provided by the actuary engaged by the board.  
23     **The assumed interest rate used for tables adopted under this section**  
24     **must be equal to the current rate, at the time of adoption, for valuing**  
25     **annuity benefits as published from time to time by the federal Pension**  
26     **Benefit Guaranty Corporation.** Actuarial equivalency factor tables  
27     adopted under this section become effective on January 1 of the calendar  
28     year following adoption of the tables by the board **or on another date**  
29     **specified by the board.** All computations of payments must use the  
30     actuarial equivalency factor tables that are in effect on:

31         (a) The effective date of retirement for any member, judge member or al-



1 ternate payee;

2 (b) The date that the first payment is due for any death beneficiary; or

3 (c) The date that the first payment is due for any recalculation of pay-  
4 ments that is not attributable to error, including but not limited to recalcu-  
5 lations under ORS 238.465 (2).

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

8 **SECTION 15. The Public Employees Retirement Board shall first**  
9 **adopt actuarial equivalency factor tables under ORS 238.607, as**  
10 **amended by section 14 of this 2016 Act, no later than January 1, 2017.**  
11 **The board shall use the tables adopted under this section to compute**  
12 **the retirement allowances of members, judge members and alternate**  
13 **payees for whom the effective date of retirement is on or after the**  
14 **effective date of this 2016 Act but before January 1, 2017.**

15  
16 **DEFINITIONS FOR FAIR RETIREMENT PLAN**  
17

18 **SECTION 16. As used in sections 16 to 35 of this 2016 Act:**

19 (1) “Employee” has the meaning given that term in ORS 238.005.

20 (2) “Fair Plan” means the Fair Retirement Plan established under  
21 sections 16 to 35 of this 2016 Act.

22 (3) “Fair Plan member” means a person who has established mem-  
23 bership in the Fair Plan under section 21 or 32 of this 2016 Act.

24 (4) “Firefighter” means:

25 (a) A person employed by a local government, as defined in ORS  
26 174.116, whose primary job duties include the fighting of fires;

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

29 (c) An employee of the State Forestry Department who is certified  
30 by the State Forester as a professional wildland firefighter and whose  
31 primary duties include the abatement of uncontrolled fires as de-

scribed in ORS 477.064.

(5) “Participating public employer” means a public employer as defined in ORS 238.005 that provides retirement benefits for employees of the public employee under the system.

(6) “Police officer” means:

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

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

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

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

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

## FAIR RETIREMENT PLAN

**SECTION 17.** (1) The Fair Retirement Plan is established. Notwithstanding any provision of ORS chapter 238 or 238A, any person who is employed by a participating public employer on or after January 1, 2017, and who has not established membership in the Public Employees Retirement System before January 1, 2017, is entitled to receive only the benefits provided under the Fair Plan for periods of service with participating public employers on and after January 1, 2017, and has no right or claim to any benefit under ORS chapter 238 or 238A, except as specifically provided by sections 16 to 35 of this 2016 Act. A person who establishes membership in the system before Jan-

January 1, 2017, is entitled to receive the benefits provided by ORS chapter 238 or 238A.

(2) A person establishes membership in the system before January 1, 2017, for the purposes of this section if:

(a) The person is a member of the system, or a judge member of the system, on December 31, 2016; or

(b) The person performed any period of service for a participating public employer before January 1, 2017, that is credited to the six-month period of employment required of an employee under ORS 238A.100 before an employee may become a member of the system.

(3) Except as provided in sections 16 to 35 of this 2016 Act, ORS chapters 238 and 238A do not apply to the Fair Plan.

(4) The provisions of this section do not apply to a person elected or appointed as a member of the Legislative Assembly, as a justice of the Supreme Court or as a judge of the Court of Appeals, the Oregon Tax Court or a circuit court.

## ADMINISTRATION

**SECTION 18. Fair Retirement Plan administered by Public Employees Retirement Board.** (1) The Fair Retirement Plan is part of the Public Employees Retirement System and is administered by the Public Employees Retirement Board.

(2) The board shall contract with a private sector firm for the recordkeeping and customer service functions of the Fair Plan. The board shall seek a firm that has economical pricing structures and the experience, knowledge and facilities to properly perform the functions specified in this subsection.

(3) ORS 238.035, 238.156, 238.445, 238.600, 238.601, 238.615, 238.618, 238.630, 238.635, 238.640, 238.645, 238.650, 238.655, 238.700, 238.705, 238.710 and 238.715 apply to the Fair Plan.

(4) Amounts contributed by or on behalf of Fair Plan members shall be held separate and distinct from the General Fund and the Public Employees Retirement Fund, but may be commingled with the assets of the Public Employees Retirement Fund for investment purposes.

**SECTION 19. Administrative costs of Fair Retirement Plan.** (1) The Public Employees Retirement Board shall implement and administer sections 16 to 35 of this 2016 Act so that:

(a) No expense is incurred by participating public employers or by the Public Employees Retirement Fund for the implementation and administration of the Fair Retirement Plan; and

(b) Participating public employers and the Public Employees Retirement System incur no liabilities other than those liabilities that are imposed under sections 16 to 35 of this 2016 Act or other law.

(2) The system may assess a charge against the member account of a Fair Plan member. Funds collected pursuant to the charge are continuously appropriated to the board and may be used only to cover the costs incurred by the system to implement and administer the Fair Plan.

## **PARTICIPATION BY PUBLIC EMPLOYERS**

**SECTION 20. Participation generally.** (1) All public employers participating in the Public Employees Retirement System on January 1, 2017:

(a) Shall continue to be participating public employers for the purposes of the Fair Retirement Plan; and

(b) Shall provide benefits under the Fair Plan for Fair Plan members.

(2) Any participating public employer that provided retirement benefits under ORS chapter 238 or 238A for some, but not all, of the employees of the participating public employer on December 31, 2016,

need not provide benefits under the Fair Plan for any class of employees who were not members of the system on December 31, 2016.

(3) Any public employer that is not a participating public employer on December 31, 2016, may become a participating public employer under the Fair Plan. A public employer may become a participating public employer under this subsection only for the purposes of service performed by employees of the public employer on or after the date the public employer elects to participate in the Fair Plan.

## MEMBERSHIP

**SECTION 21. Establishing membership in Fair Retirement Plan; member account.** (1) Any person who is employed by a participating public employer on or after January 1, 2017, and who has not established membership in the Public Employees Retirement System before January 1, 2017, as described in section 17 of this 2016 Act, becomes a member of the Fair Retirement Plan after completing six full calendar months of employment, unless the employee elects not to become a Fair Plan member. The six-month probationary period may not be interrupted by more than 30 consecutive working days.

(2) Unless the employee elects not to become a member, upon completion of the six-month probationary period required by this section, an employee shall become a member of the Fair Plan on the first day of the next full month following the six-month period.

(3) Upon a person's becoming a Fair Plan member under this section, the Public Employees Retirement Board shall create a member account for the person. The member account shall consist of employee contributions made under section 22 of this 2016 Act and employer contributions made under section 23 of this 2016 Act, adjusted to reflect any earnings or losses on those contributions.

**CONTRIBUTIONS**

**SECTION 22. Employee contribution.** (1) A Fair Plan member may elect to make an employee contribution to the Fair Retirement Plan equal to a specific percentage of the Fair Plan member's salary. The percentage may not be more than the amount allowed by the federal law governing the Fair Plan's tax qualification and must be a whole number.

(2) A participating public employer may not assume or pay the employee contribution provided for in this section, except that a participating public employer may structure the compensation of the employee in a manner that allows a Fair Plan member who is employed by the employer to make the employee contribution on a pretax basis.

**SECTION 23. Employer contributions.** (1) A participating public employer must contribute to the Fair Retirement Plan a base amount equal to three percent of the salary of each Fair Plan member employed by the employer. The base amount must be contributed for all Fair Plan members, without regard to whether the employee makes any contributions under section 22 of this 2016 Act.

(2) In addition to the base amount required under subsection (1) of this section, for a Fair Plan member who is not a police officer or firefighter, a participating public employer must make contributions equal to one percent of a Fair Plan member's salary for every two percent of salary contributed by the Fair Plan member under section 22 of this 2016 Act. In no event may the total contribution by the employer for a Fair Plan member who is not a police officer or firefighter exceed an amount equal to six percent of the Fair Plan member's salary.

(3) In addition to the base amount required under subsection (1) of this section, for a Fair Plan member who is a police officer or fire-

1 **fighter, a participating public employer who employs the Fair Plan**  
2 **member as a police officer or firefighter must make contributions**  
3 **equal to one and one-third percent of the Fair Plan member's salary**  
4 **for every two percent of salary contributed by the Fair Plan member**  
5 **under section 22 of this 2016 Act. However, if a Fair Plan member who**  
6 **is a police officer or firefighter contributes six percent of the Fair Plan**  
7 **member's salary, the total employer contribution shall be an amount**  
8 **equal to 7.15 percent of the Fair Plan member's salary. In no event**  
9 **may the total contribution by the employer for a Fair Plan member**  
10 **who is a police officer or firefighter exceed an amount equal to 7.15**  
11 **percent of the Fair Plan member's salary.**

12 **SECTION 24. Salary defined. (1) For the purpose of computing em-**  
13 **ployer and employee contributions under sections 22 and 23 of this 2016**  
14 **Act, "salary" means the remuneration paid to a Fair Plan member in**  
15 **return for service to the participating public employer, including**  
16 **remuneration in the form of living quarters, board or other items of**  
17 **value, to the extent the remuneration is includable in the employee's**  
18 **taxable income under Oregon law. "Salary" includes the additional**  
19 **amounts specified in subsection (2) of this section, but does not in-**  
20 **clude the amounts specified in subsection (3) of this section, regardless**  
21 **of whether those amounts are includable in taxable income.**

22 **(2) For the purpose of computing employer and employee contribu-**  
23 **tions under sections 22 and 23 of this 2016 Act, "salary" includes the**  
24 **following amounts:**

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

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

29 **(c) Any amount that is contributed to a cafeteria plan or qualified**  
30 **transportation fringe benefit plan by the employer at the election of**  
31 **the employee and that is not includable in the taxable income of the**

1 employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on the ef-  
2 fective date of this 2016 Act.

3 (d) Retroactive payments made to an employee to correct a clerical  
4 error, pursuant to an award by a court or by order of or pursuant to  
5 a conciliation agreement with an administrative agency charged with  
6 enforcing federal or state law protecting the employee's rights to em-  
7 ployment or wages, which shall be allocated to and deemed paid in the  
8 periods in which the work was done or in which the work would have  
9 been done.

10 (3) For the purpose of computing employer and employee contribu-  
11 tions under sections 22 and 23 of this 2016 Act, "salary" does not in-  
12 clude the following amounts:

13 (a) Money paid for overtime or bonuses.

14 (b) Travel expenses or any other expenses incidental to an  
15 employer's business that are reimbursed by the employer.

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

17 (d) Any lump sum payment for accumulated unused sick leave, va-  
18 cation leave or other paid leave.

19 (e) Any accelerated payment of an employment contract for a fu-  
20 ture period or any advance against future wages.

21 (f) Any retirement incentive, retirement severance pay, retirement  
22 bonus or retirement gratuitous payment.

23 (g) Payment for a leave of absence after the date the employer and  
24 employee have agreed that no future service will be performed.

25 (h) Payments for instructional services rendered to public univer-  
26 sities listed in ORS 352.002 or the Oregon Health and Science Univer-  
27 sity when those services are in excess of full-time employment subject  
28 to sections 16 to 35 of this 2016 Act. A person employed under a con-  
29 tract for less than 12 months is subject to this paragraph only for the  
30 months covered by the contract.

31 (i) Any amount in excess of \$200,000 for a calendar year. If any pe-



riod over which salary is determined is less than 12 months, the \$200,000 limitation for that period shall be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12. The Public Employees Retirement Board shall adopt rules adjusting this dollar limit to incorporate adjustments authorized by the Internal Revenue Service.

**SECTION 25. Collective bargaining agreements.** Notwithstanding section 22 of this 2016 Act, if a participating public employer is paying employee contributions for employees of the employer pursuant to ORS 238.205 or 238A.335 under a collective bargaining agreement in effect on January 1, 2017, the employer shall continue to make those contributions under the Fair Retirement Plan until such time as the term of the agreement expires. Upon the expiration of the collective bargaining agreement, the participating public employer may not thereafter “pick-up,” assume or pay the employee contributions.

## VESTING

**SECTION 26. Vesting; loans.** (1) A Fair Plan member vests in employee contributions when the contributions are made.

(2) A Fair Plan member vests in employer contributions when employer contributions have been made on behalf of the member in each of 54 consecutive months.

(3) The Public Employees Retirement Board shall establish a mechanism under which a Fair Plan member may borrow amounts from the member account established under section 21 of this 2016 Act. A member may borrow only from amounts in which the member has become vested under this section. The board shall limit loans to terms and conditions allowed under the tax qualification of the Fair Retirement Plan.

**INVESTMENT OF MONEYS IN MEMBER ACCOUNTS**

**SECTION 27. Investment program.** (1) The Oregon Investment Council shall establish a program for investment of moneys in Fair Plan member accounts. The program shall include policies and procedures for the investment of moneys in the accounts. The program and all investments of moneys under the program are subject to the provisions of ORS 293.701 to 293.820.

(2) The council shall provide to the Public Employees Retirement Board a description, set forth in the council's policies and procedures, of the investment options for moneys in Fair Plan member accounts, the applicable benchmark for each option and a description of the characteristics of each benchmark. The council shall provide at least nine different investment options with a range of investment risks.

(3) The provisions of ORS chapter 59 that require registration of securities do not apply to any share, participation or other interest under the investment program established under this section. The provisions of ORS chapter 59 that require licensing of certain persons as broker-dealers or as investment advisers do not apply to any of the following persons or entities for the purposes of implementing and administering the investment program established under this section:

(a) The Oregon Investment Council.

(b) The Public Employees Retirement Board.

(c) The Public Employees Retirement System.

(d) The State Treasurer.

(e) Any officer or employee of the persons or entities described in paragraphs (a) to (d) of this subsection.

**SECTION 28. Self-direction of investments.** A Fair Plan member may elect any investment option offered under the investment program established under section 27 of this 2016 Act for all or part of the moneys in a member account. The Public Employees Retirement Board

1 by rule shall provide for the manner in which changes in investment  
2 options may be made by a Fair Plan member.

3  
4 **WITHDRAWAL OF MEMBER ACCOUNT**

5  
6 **SECTION 29. Account may be withdrawn by inactive member at any**  
7 **time after leaving public employment.** (1) An inactive Fair Plan  
8 member may withdraw the member's account at any time.

9 (2) Withdrawal of a member account under this section cancels all  
10 membership rights in the Fair Retirement Plan.

11 (3) If a Fair Plan member withdraws the member account and is  
12 subsequently reemployed by a participating public employer, the per-  
13 son may reestablish membership under the Fair Plan only for the  
14 purposes of service performed after the person is reemployed.

15 (4) A Fair Plan member is inactive for the purposes of this section  
16 if the member is separated from all service with participating public  
17 employers and with employers that are treated as part of a partic-  
18 ipating public employer's controlled group under the federal laws and  
19 rules governing the status of the Fair Plan as a qualified governmental  
20 retirement plan and trust.

21  
22 **DEATH BENEFIT**

23  
24 **SECTION 30. Death benefit.** (1) If a Fair Plan member dies before  
25 retiring, the Public Employees Retirement Board shall pay all money  
26 credited at the time of death to the member account of the member  
27 in which the member has become vested under section 26 of this 2016  
28 Act to one or more beneficiaries designated by the member. A Fair  
29 Plan member may designate as a beneficiary any person, including the  
30 personal representative for the estate of the member or a trustee  
31 named by the member. The withdrawal of a member's account under

section 29 of this 2016 Act invalidates any designation of a beneficiary under this section.

(2) If a Fair Plan member dies before retiring and has not designated a beneficiary under subsection (1) of this section, the board shall pay all money credited at the time of death to the member account of the member in which the member has become vested under section 26 of this 2016 Act to the personal representative appointed for the estate of the deceased member. If an affidavit has been filed under ORS 114.505 to 114.560 and the amount of payment does not exceed the maximum amount of personal property for which an affidavit may be filed under ORS 114.505 to 114.560, the board shall pay the amount to the person who filed the affidavit.

(3) If a Fair Plan member dies before retiring and has designated a beneficiary under subsection (1) of this section, but the beneficiary dies before the member or dies before distribution is made under this section, the board shall pay the amount of money that would otherwise have been paid to the beneficiary to the personal representative appointed for the estate of the deceased beneficiary. If an affidavit has been filed under ORS 114.505 to 114.560 and the amount of money that would have been paid to the beneficiary does not exceed the maximum amount of personal property for which an affidavit may be filed under ORS 114.505 to 114.560, the board shall pay the amount to the person who filed the affidavit on behalf of the estate of the beneficiary.

(4) Payment by the board of a death benefit in the manner provided by this section completely discharges the board and the Public Employees Retirement System from any liability for amounts owing by reason of the death of a Fair Plan member.

## BENEFITS UPON RETIREMENT

**SECTION 31. Annuities and other payout options.** The Public Em-



**BENEFIT INCREASES**

**SECTION 33. Local government approval of benefit increases.** (1)

Any benefit increase that is described in subsection (2) of this section and that is provided for by laws that become effective on or after the effective date of this 2016 Act applies to participating public employers other than the state only if the benefit increase is approved in writing by the participating public employer. Written approval of the benefit increase must be delivered to the Public Employees Retirement Board within three months after the session of the Legislative Assembly that enacted the benefit increase adjourns sine die. If the benefit increase is approved in the manner provided by this section, the benefit increase becomes operative on January 1 of the next calendar year.

(2) The provisions of this section apply to any change to the benefits provided under sections 16 to 35 of this 2016 Act that is the result of laws enacted during a single legislative session, excluding any change that is made solely to maintain the status of the Fair Retirement Plan as a tax-qualified governmental plan, if the change results in an increase in the total liability for benefits under the Fair Plan, whether funded or not funded, that is in excess of one-tenth of one percent.

**SECTION 34. Application of benefit increases to legislators.** Any law enacted after January 1, 2017, that has the effect of increasing the total liability for benefits under sections 16 to 35 of this 2016 Act that is in excess of one-tenth of one percent does not apply to service by members of the Legislative Assembly that entitles those members to benefits under sections 16 to 35 of this 2016 Act.

**CONTRACT RIGHTS**

**SECTION 35.** Except as provided in section 33 of this 2016 Act, nothing in sections 16 to 35 of this 2016 Act prevents the Legislative

Assembly or the Public Employees Retirement Board from changing or terminating the retirement benefits payable to persons who become Fair Plan members on or after January 1, 2017, as described in section 17 of this 2016 Act, as long as the change or termination applies only to benefits accruing on or after the date the change or termination is effective.

## TAX QUALIFICATION

**SECTION 36.** (1) Except as provided in this section, sections 16 to 35 and 37 of this 2016 Act, the amendments to ORS 106.340, 169.810, 173.051, 192.502, 196.165, 237.620, 237.650, 238.105, 238.115, 238.265, 238.445, 238.447, 238.455, 238.460, 238.465, 238.630, 238.645, 238.650, 238.700, 238.705, 238.715, 243.800, 243.830, 268.240, 338.135, 341.290, 341.551, 350.355, 352.129, 352.138, 353.117, 377.836, 396.330, 410.614, 576.306, and 777.775 by sections 38 to 74 of this 2016 Act and the repeal of ORS 238.750 by section 75 of this 2016 Act become operative on January 1, 2017.

(2) As soon as possible after the effective date of this 2016 Act, the Public Employees Retirement Board shall submit the provisions of sections 16 to 35 of this 2016 Act to the Internal Revenue Service and seek approval of sections 16 to 35 of this 2016 Act as a qualified governmental retirement plan and trust under the Internal Revenue Code.

(3) As soon as possible after the effective date of this 2016 Act, the board shall adopt all rules necessary for the implementation and operation of the Fair Retirement Plan.

**SECTION 37.** (1) Subject to the provisions of this section, until December 31, 2018, the Public Employees Retirement System may use assets of the Public Employees Retirement Fund that are unrelated to sections 16 to 35 of this 2016 Act to pay the administrative costs of the Fair Retirement Plan.

(2) Before January 1, 2023, the Public Employees Retirement Board

1 shall transfer from accounts established under the Fair Retirement  
2 Plan the amount used under subsection (1) of this section, with inter-  
3 est, to accounts in the fund established to provide retirement benefits  
4 under ORS chapter 238. The rate of interest must be at least equal to  
5 the rate that the moneys would have earned had the moneys remained  
6 invested in the fund established to provide retirement benefits under  
7 ORS chapter 238, and in no event less than two percent per annum.

8 (3) Until such time as all moneys and interest are repaid under  
9 subsection (2) of this section, beneficiaries of the fund established to  
10 provide retirement benefits under ORS chapter 238 have a security  
11 interest in the assets of the Fair Retirement Plan equal to the amount  
12 used under subsection (1) of this section and the interest required  
13 under subsection (2) of this section. The security interest may be  
14 foreclosed in an action at law.

15 (4) If the board fails to transfer any amount required under sub-  
16 section (2) of this section before January 1, 2023, a person entitled to  
17 benefits under ORS chapter 238 may bring a mandamus action to  
18 compel the board to make the transfer and to perform all acts within  
19 the authority of the board to collect employer or employee contribu-  
20 tions to the Fair Retirement Plan necessary to fund the transfer.

21 (5) In determining the amount of employer contributions necessary  
22 under the Fair Retirement Plan, the board shall include any amounts  
23 required to be transferred under subsection (2) of this section that are  
24 attributable to paying the costs of administering the Fair Retirement  
25 Plan.

26 (6) The board shall deduct from the member accounts established  
27 under section 21 of this 2016 Act the amounts to be transferred under  
28 subsection (2) of this section that are attributable to paying the costs  
29 of administering the Fair Retirement Plan. The deduction must be a  
30 uniform percentage of the member accounts.



**CONFORMING AMENDMENTS**

**SECTION 38.** ORS 106.340 is amended to read:

106.340. (1) Any privilege, immunity, right or benefit granted by statute, administrative or court rule, policy, common law or any other law to an individual because the individual is or was married, or because the individual is or was an in-law in a specified way to another individual, is granted on equivalent terms, substantive and procedural, to an individual because the individual is or was in a domestic partnership or because the individual is or was, based on a domestic partnership, related in a specified way to another individual.

(2) Any responsibility imposed by statute, administrative or court rule, policy, common law or any other law on an individual because the individual is or was married, or because the individual is or was an in-law in a specified way to another individual, is imposed on equivalent terms, substantive and procedural, on an individual because the individual is or was in a domestic partnership or because the individual is or was, based on a domestic partnership, related in a specified way to another individual.

(3) Any privilege, immunity, right, benefit or responsibility granted or imposed by statute, administrative or court rule, policy, common law or any other law to or on a spouse with respect to a child of either of the spouses is granted or imposed on equivalent terms, substantive and procedural, to or on a partner with respect to a child of either of the partners.

(4) Any privilege, immunity, right, benefit or responsibility granted or imposed by statute, administrative or court rule, policy, common law or any other law to or on a former or surviving spouse with respect to a child of either of the spouses is granted or imposed on equivalent terms, substantive and procedural, to or on a former or surviving partner with respect to a child of either of the partners.

(5) Many of the laws of this state are intertwined with federal law, and the Legislative Assembly recognizes that it does not have the jurisdiction to

control federal laws or the privileges, immunities, rights, benefits and responsibilities related to federal laws.

(6) ORS 106.300 to 106.340 do not require or permit the extension of any benefit under ORS chapter 238 or 238A **or sections 16 to 35 of this 2016 Act**, or under any other retirement, deferred compensation or other employee benefit plan, if the plan administrator reasonably concludes that the extension of benefits would conflict with a condition for tax qualification of the plan, or a condition for other favorable tax treatment of the plan, under the Internal Revenue Code or regulations adopted under the Internal Revenue Code.

(7) ORS 106.300 to 106.340 do not require the extension of any benefit under any employee benefit plan that is subject to federal regulation under the Employee Retirement Income Security Act of 1974.

(8) For purposes of administering Oregon tax laws, partners in a domestic partnership, surviving partners in a domestic partnership and the children of partners in a domestic partnership have the same privileges, immunities, rights, benefits and responsibilities as are granted to or imposed on spouses in a marriage, surviving spouses and their children.

**SECTION 39.** ORS 169.810 is amended to read:

169.810. (1) Assumption by the regional correctional facility of those custodial duties formerly performed by a county or city jail constitutes an assumption of duties by a public employer subject to ORS 236.610 to 236.640.

(2) An employee who transfers from employment at a county or city jail to employment at a regional correctional facility operated by the county or city by which the employee has been employed shall be accorded the following rights:

(a) If a trial or probationary service period is required for employment at the county or city jail, the period of county or city employment of the employee shall apply to that requirement.

(b) An employee who transfers from employment at a county or city jail to employment at the regional correctional facility shall retain accumulated

1 unused sick leave with pay and the accumulated unused vacation with pay  
2 to which the employee was entitled under county or city employment on the  
3 day before the transfer that are supported by written records of accumulation  
4 and use pursuant to a plan formally adopted and applicable to the employee  
5 under county or city employment.

6 (c) Notwithstanding any other provision of law applicable to a retirement  
7 system for county employees or city employees, an employee who transfers  
8 from employment at a county or city jail to employment at the regional  
9 correctional facility who was participating in a retirement system under  
10 county or city employment may elect, not later than the first day of the  
11 month following the month in which the employee transfers, to continue  
12 under the retirement system in which participating and not to become, if  
13 eligible, a member of another retirement system. The election shall be made  
14 in writing and shall be submitted to the regional correctional facility ad-  
15 ministrator, the Public Employees Retirement Board and the governing body  
16 of the counties and cities that operate the regional correctional facility.

17 (d) If an employee elects to continue under the retirement system in  
18 which participating under county or city employment, the employee shall  
19 continue to make required contributions to that system and the adminis-  
20 tration of the regional correctional facility shall make contributions on be-  
21 half of the employee required of an employer participating in that system.

22 (e) If an employee fails to elect to continue under the retirement system  
23 in which participating under county or city employment as provided in par-  
24 agraph (c) of this subsection or was not participating in a retirement system  
25 under county or city employment, the employee shall become, if eligible, a  
26 member of the Public Employees Retirement System. If the employee is eli-  
27 gible to become a member of the Public Employees Retirement System, the  
28 period of continuous service of the employee under county or city employ-  
29 ment immediately before the transfer of the employee shall apply to the six  
30 months' service requirement of ORS 238.015, 238A.100 or 238A.300 (1) **or**  
31 **section 21 of this 2016 Act.**

(3) The county or city employment records, or a copy thereof, applicable to an employee transferred under subsection (2) of this section shall be provided by the person having custody of the records to the regional correctional facility administrator.

**SECTION 40.** ORS 173.051 is amended to read:

173.051. The Legislative Fiscal Officer, with the aid of the Public Employees Retirement Board and public employers providing benefits under ORS chapter 238A **or sections 16 to 35 of this 2016 Act**, shall prepare a fiscal impact statement on each measure reported out of a committee of the Legislative Assembly that would increase employer contributions under ORS chapter 238A **or sections 16 to 35 of this 2016 Act**. If the Legislative Fiscal Officer determines that a proposed measure would result in an increase in the total liability for benefits under ORS chapter 238A **or sections 16 to 35 of this 2016 Act** that is in excess of one-tenth of one percent, the Legislative Fiscal Officer shall promptly notify the Public Employees Retirement Board. The board shall thereafter promptly give notice of the proposed measure, and the fiscal impact of the proposed measure as determined by the Legislative Fiscal Officer, to all public employers providing benefits under ORS chapter 238A **or sections 16 to 35 of this 2016 Act**.

**SECTION 41.** ORS 192.502 is amended to read:

192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

(1) Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.

(2) Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute

an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.

(3) Upon compliance with ORS 192.437, public body employee or volunteer residential addresses, residential telephone numbers, personal cellular telephone numbers, personal electronic mail addresses, driver license numbers, employer-issued identification card numbers, emergency contact information, Social Security numbers, dates of birth and other telephone numbers contained in personnel records maintained by the public body that is the employer or the recipient of volunteer services. This exemption:

(a) Does not apply to the addresses, dates of birth and telephone numbers of employees or volunteers who are elected officials, except that a judge or district attorney subject to election may seek to exempt the judge's or district attorney's address or telephone number, or both, under the terms of ORS 192.445;

(b) Does not apply to employees or volunteers to the extent that the party seeking disclosure shows by clear and convincing evidence that the public interest requires disclosure in a particular instance pursuant to ORS 192.437;

(c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a professional education association of which the substitute teacher may be a member; and

(d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

(4) Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure.

(5) Information or records of the Department of Corrections, including the State Board of Parole and Post-Prison Supervision, to the extent that dis-

1 closure would interfere with the rehabilitation of a person in custody of the  
2 department or substantially prejudice or prevent the carrying out of the  
3 functions of the department, if the public interest in confidentiality clearly  
4 outweighs the public interest in disclosure.

5 (6) Records, reports and other information received or compiled by the  
6 Director of the Department of Consumer and Business Services in the ad-  
7 ministration of ORS chapters 723 and 725 not otherwise required by law to  
8 be made public, to the extent that the interests of lending institutions, their  
9 officers, employees and customers in preserving the confidentiality of such  
10 information outweighs the public interest in disclosure.

11 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

12 (8) Any public records or information the disclosure of which is prohib-  
13 ited by federal law or regulations.

14 (9)(a) Public records or information the disclosure of which is prohibited  
15 or restricted or otherwise made confidential or privileged under Oregon law.

16 (b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply  
17 to factual information compiled in a public record when:

18 (A) The basis for the claim of exemption is ORS 40.225;

19 (B) The factual information is not prohibited from disclosure under any  
20 applicable state or federal law, regulation or court order and is not other-  
21 wise exempt from disclosure under ORS 192.410 to 192.505;

22 (C) The factual information was compiled by or at the direction of an  
23 attorney as part of an investigation on behalf of the public body in response  
24 to information of possible wrongdoing by the public body;

25 (D) The factual information was not compiled in preparation for liti-  
26 gation, arbitration or an administrative proceeding that was reasonably  
27 likely to be initiated or that has been initiated by or against the public body;  
28 and

29 (E) The holder of the privilege under ORS 40.225 has made or authorized  
30 a public statement characterizing or partially disclosing the factual infor-  
31 mation compiled by or at the attorney's direction.

(10) Public records or information described in this section, furnished by the public body originally compiling, preparing or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.

(11) Records of the Energy Facility Siting Council concerning the review or approval of security programs pursuant to ORS 469.530.

(12) Employee and retiree address, telephone number and other nonfinancial membership records and employee financial records maintained by the Public Employees Retirement System pursuant to ORS chapters 238 and 238A **and sections 16 to 35 of this 2016 Act.**

(13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the agents of the treasurer or the council relating to active or proposed publicly traded investments under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or liquidation of the investments. For the purposes of this subsection:

(a) The exemption does not apply to:

(A) Information in investment records solely related to the amount paid directly into an investment by, or returned from the investment directly to, the treasurer or council; or

(B) The identity of the entity to which the amount was paid directly or from which the amount was received directly.

(b) An investment in a publicly traded investment is no longer active when acquisition, exchange or liquidation of the investment has been concluded.

(14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer, council or board relating to actual or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset including but not limited to records regarding the solicitation, acquisition,

1 deployment, exchange or liquidation of the investments including but not  
2 limited to:

3 (A) Due diligence materials that are proprietary to an investment fund,  
4 to an asset ownership or to their respective investment vehicles.

5 (B) Financial statements of an investment fund, an asset ownership or  
6 their respective investment vehicles.

7 (C) Meeting materials of an investment fund, an asset ownership or their  
8 respective investment vehicles.

9 (D) Records containing information regarding the portfolio positions in  
10 which an investment fund, an asset ownership or their respective investment  
11 vehicles invest.

12 (E) Capital call and distribution notices of an investment fund, an asset  
13 ownership or their respective investment vehicles.

14 (F) Investment agreements and related documents.

15 (b) The exemption under this subsection does not apply to:

16 (A) The name, address and vintage year of each privately placed invest-  
17 ment fund.

18 (B) The dollar amount of the commitment made to each privately placed  
19 investment fund since inception of the fund.

20 (C) The dollar amount of cash contributions made to each privately placed  
21 investment fund since inception of the fund.

22 (D) The dollar amount, on a fiscal year-end basis, of cash distributions  
23 received by the State Treasurer, the Oregon Investment Council, the Oregon  
24 Growth Board or the agents of the treasurer, council or board from each  
25 privately placed investment fund.

26 (E) The dollar amount, on a fiscal year-end basis, of the remaining value  
27 of assets in a privately placed investment fund attributable to an investment  
28 by the State Treasurer, the Oregon Investment Council, the Oregon Growth  
29 Board or the agents of the treasurer, council or board.

30 (F) The net internal rate of return of each privately placed investment  
31 fund since inception of the fund.



1 (G) The investment multiple of each privately placed investment fund  
2 since inception of the fund.

3 (H) The dollar amount of the total management fees and costs paid on  
4 an annual fiscal year-end basis to each privately placed investment fund.

5 (I) The dollar amount of cash profit received from each privately placed  
6 investment fund on a fiscal year-end basis.

7 (15) The monthly reports prepared and submitted under ORS 293.761 and  
8 293.766 concerning the Public Employees Retirement Fund and the Industrial  
9 Accident Fund may be uniformly treated as exempt from disclosure for a  
10 period of up to 90 days after the end of the calendar quarter.

11 (16) Reports of unclaimed property filed by the holders of such property  
12 to the extent permitted by ORS 98.352.

13 (17)(a) The following records, communications and information submitted  
14 to the Oregon Business Development Commission, the Oregon Business De-  
15 velopment Department, the State Department of Agriculture, the Oregon  
16 Growth Board, the Port of Portland or other ports as defined in ORS 777.005,  
17 or a county or city governing body and any board, department, commission,  
18 council or agency thereof, by applicants for investment funds, grants, loans,  
19 services or economic development moneys, support or assistance including,  
20 but not limited to, those described in ORS 285A.224:

21 (A) Personal financial statements.

22 (B) Financial statements of applicants.

23 (C) Customer lists.

24 (D) Information of an applicant pertaining to litigation to which the ap-  
25 plicant is a party if the complaint has been filed, or if the complaint has not  
26 been filed, if the applicant shows that such litigation is reasonably likely to  
27 occur; this exemption does not apply to litigation which has been concluded,  
28 and nothing in this subparagraph shall limit any right or opportunity  
29 granted by discovery or deposition statutes to a party to litigation or po-  
30 tential litigation.

31 (E) Production, sales and cost data.

1 (F) Marketing strategy information that relates to applicant's plan to  
2 address specific markets and applicant's strategy regarding specific compet-  
3 itors.

4 (b) The following records, communications and information submitted to  
5 the State Department of Energy by applicants for tax credits or for grants  
6 awarded under ORS 469B.256:

7 (A) Personal financial statements.

8 (B) Financial statements of applicants.

9 (C) Customer lists.

10 (D) Information of an applicant pertaining to litigation to which the ap-  
11 plicant is a party if the complaint has been filed, or if the complaint has not  
12 been filed, if the applicant shows that such litigation is reasonably likely to  
13 occur; this exemption does not apply to litigation which has been concluded,  
14 and nothing in this subparagraph shall limit any right or opportunity  
15 granted by discovery or deposition statutes to a party to litigation or po-  
16 tential litigation.

17 (E) Production, sales and cost data.

18 (F) Marketing strategy information that relates to applicant's plan to  
19 address specific markets and applicant's strategy regarding specific compet-  
20 itors.

21 (18) Records, reports or returns submitted by private concerns or enter-  
22 prises required by law to be submitted to or inspected by a governmental  
23 body to allow it to determine the amount of any transient lodging tax pay-  
24 able and the amounts of such tax payable or paid, to the extent that such  
25 information is in a form which would permit identification of the individual  
26 concern or enterprise. Nothing in this subsection shall limit the use which  
27 can be made of such information for regulatory purposes or its admissibility  
28 in any enforcement proceedings. The public body shall notify the taxpayer  
29 of the delinquency immediately by certified mail. However, in the event that  
30 the payment or delivery of transient lodging taxes otherwise due to a public  
31 body is delinquent by over 60 days, the public body shall disclose, upon the

request of any person, the following information:

(a) The identity of the individual concern or enterprise that is delinquent over 60 days in the payment or delivery of the taxes.

(b) The period for which the taxes are delinquent.

(c) The actual, or estimated, amount of the delinquency.

(19) All information supplied by a person under ORS 151.485 for the purpose of requesting appointed counsel, and all information supplied to the court from whatever source for the purpose of verifying the financial eligibility of a person pursuant to ORS 151.485.

(20) Workers' compensation claim records of the Department of Consumer and Business Services, except in accordance with rules adopted by the Director of the Department of Consumer and Business Services, in any of the following circumstances:

(a) When necessary for insurers, self-insured employers and third party claim administrators to process workers' compensation claims.

(b) When necessary for the director, other governmental agencies of this state or the United States to carry out their duties, functions or powers.

(c) When the disclosure is made in such a manner that the disclosed information cannot be used to identify any worker who is the subject of a claim.

(d) When a worker or the worker's representative requests review of the worker's claim record.

(21) Sensitive business records or financial or commercial information of the Oregon Health and Science University that is not customarily provided to business competitors.

(22) Records of Oregon Health and Science University regarding candidates for the position of president of the university.

(23) The records of a library, including:

(a) Circulation records, showing use of specific library material by a named person;

(b) The name of a library patron together with the address or telephone

number of the patron; and

(c) The electronic mail address of a patron.

(24) The following records, communications and information obtained by the Housing and Community Services Department in connection with the department's monitoring or administration of financial assistance or of housing or other developments:

(a) Personal and corporate financial statements and information, including tax returns.

(b) Credit reports.

(c) Project appraisals, excluding appraisals obtained in the course of transactions involving an interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed of as part of the project, but only after the transactions have closed and are concluded.

(d) Market studies and analyses.

(e) Articles of incorporation, partnership agreements and operating agreements.

(f) Commitment letters.

(g) Project pro forma statements.

(h) Project cost certifications and cost data.

(i) Audits.

(j) Project tenant correspondence.

(k) Personal information about a tenant.

(L) Housing assistance payments.

(25) Raster geographic information system (GIS) digital databases, provided by private forestland owners or their representatives, voluntarily and in confidence to the State Forestry Department, that is not otherwise required by law to be submitted.

(26) Sensitive business, commercial or financial information furnished to or developed by a public body engaged in the business of providing electricity or electricity services, if the information is directly related to a transaction described in ORS 261.348, or if the information is directly related to a bid,

1 proposal or negotiations for the sale or purchase of electricity or electricity  
2 services, and disclosure of the information would cause a competitive disad-  
3 vantage for the public body or its retail electricity customers. This sub-  
4 section does not apply to cost-of-service studies used in the development or  
5 review of generally applicable rate schedules.

6 (27) Sensitive business, commercial or financial information furnished to  
7 or developed by the City of Klamath Falls, acting solely in connection with  
8 the ownership and operation of the Klamath Cogeneration Project, if the  
9 information is directly related to a transaction described in ORS 225.085 and  
10 disclosure of the information would cause a competitive disadvantage for the  
11 Klamath Cogeneration Project. This subsection does not apply to cost-of-  
12 service studies used in the development or review of generally applicable rate  
13 schedules.

14 (28) Personally identifiable information about customers of a municipal  
15 electric utility or a people's utility district or the names, dates of birth,  
16 driver license numbers, telephone numbers, electronic mail addresses or So-  
17 cial Security numbers of customers who receive water, sewer or storm drain  
18 services from a public body as defined in ORS 174.109. The utility or district  
19 may release personally identifiable information about a customer, and a  
20 public body providing water, sewer or storm drain services may release the  
21 name, date of birth, driver license number, telephone number, electronic mail  
22 address or Social Security number of a customer, if the customer consents  
23 in writing or electronically, if the disclosure is necessary for the utility,  
24 district or other public body to render services to the customer, if the dis-  
25 closure is required pursuant to a court order or if the disclosure is otherwise  
26 required by federal or state law. The utility, district or other public body  
27 may charge as appropriate for the costs of providing such information. The  
28 utility, district or other public body may make customer records available  
29 to third party credit agencies on a regular basis in connection with the es-  
30 tablishment and management of customer accounts or in the event such ac-  
31 counts are delinquent.

(29) A record of the street and number of an employee's address submitted to a special district to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

(30) Sensitive business records, capital development plans or financial or commercial information of Oregon Corrections Enterprises that is not customarily provided to business competitors.

(31) Documents, materials or other information submitted to the Director of the Department of Consumer and Business Services in confidence by a state, federal, foreign or international regulatory or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code when:

(a) The document, material or other information is received upon notice or with an understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information; and

(b) The director has obligated the Department of Consumer and Business Services not to disclose the document, material or other information.

(32) A county elections security plan developed and filed under ORS 254.074.

(33) Information about review or approval of programs relating to the security of:

(a) Generation, storage or conveyance of:

(A) Electricity;

(B) Gas in liquefied or gaseous form;

(C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

(D) Petroleum products;

(E) Sewage; or

(F) Water.

(b) Telecommunication systems, including cellular, wireless or radio sys-

1 tems.

2 (c) Data transmissions by whatever means provided.

3 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the  
4 Supreme Court designates the information as confidential by rule under ORS  
5 1.002.

6 (35)(a) Employer account records of the State Accident Insurance Fund  
7 Corporation.

8 (b) As used in this subsection, “employer account records” means all re-  
9 cords maintained in any form that are specifically related to the account of  
10 any employer insured, previously insured or under consideration to be in-  
11 sured by the State Accident Insurance Fund Corporation and any informa-  
12 tion obtained or developed by the corporation in connection with providing,  
13 offering to provide or declining to provide insurance to a specific employer.  
14 “Employer account records” includes, but is not limited to, an employer’s  
15 payroll records, premium payment history, payroll classifications, employee  
16 names and identification information, experience modification factors, loss  
17 experience and dividend payment history.

18 (c) The exemption provided by this subsection may not serve as the basis  
19 for opposition to the discovery documents in litigation pursuant to applicable  
20 rules of civil procedure.

21 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

22 (b) As used in this subsection, “claimant files” includes, but is not limited  
23 to, all records held by the corporation pertaining to a person who has made  
24 a claim, as defined in ORS 656.005, and all records pertaining to such a  
25 claim.

26 (c) The exemption provided by this subsection may not serve as the basis  
27 for opposition to the discovery documents in litigation pursuant to applicable  
28 rules of civil procedure.

29 (37) Except as authorized by ORS 408.425, records that certify or verify  
30 an individual’s discharge or other separation from military service.

31 (38) Records of or submitted to a domestic violence service or resource

1 center that relate to the name or personal information of an individual who  
2 visits a center for service, including the date of service, the type of service  
3 received, referrals or contact information or personal information of a family  
4 member of the individual. As used in this subsection, “domestic violence  
5 service or resource center” means an entity, the primary purpose of which  
6 is to assist persons affected by domestic or sexual violence by providing re-  
7 ferrals, resource information or other assistance specifically of benefit to  
8 domestic or sexual violence victims.

9 (39) Information reported to the Oregon Health Authority under ORS  
10 431A.860, except as provided in ORS 431A.860 (2)(b) information disclosed by  
11 the authority under ORS 431A.865 and any information related to disclosures  
12 made by the authority under ORS 431A.865, including information identifying  
13 the recipient of the information.

14 (40)(a) Electronic mail addresses in the possession or custody of an agency  
15 or subdivision of the executive department, as defined in ORS 174.112, a local  
16 government or local service district, as defined in ORS 174.116, or a special  
17 government body, as defined in ORS 174.117.

18 (b) This subsection does not apply to electronic mail addresses assigned  
19 by a public body to public employees for use by the employees in the ordi-  
20 nary course of their employment.

21 (41) Residential addresses, residential telephone numbers, personal cellu-  
22 lar telephone numbers, personal electronic mail addresses, driver license  
23 numbers, emergency contact information, Social Security numbers, dates of  
24 birth and other telephone numbers of individuals currently or previously  
25 certified or licensed by the Department of Public Safety Standards and  
26 Training contained in the records maintained by the department.

27 (42) Personally identifiable information and contact information of veter-  
28 ans as defined in ORS 408.225 and of persons serving on active duty or as  
29 reserve members with the Armed Forces of the United States, National  
30 Guard or other reserve component that was obtained by the Department of  
31 Veterans’ Affairs in the course of performing its duties and functions, in-



cluding but not limited to names, residential and employment addresses, dates of birth, driver license numbers, telephone numbers, electronic mail addresses, Social Security numbers, marital status, dependents, the character of discharge from military service, military rating or rank, that the person is a veteran or has provided military service, information relating to an application for or receipt of federal or state benefits, information relating to the basis for receipt or denial of federal or state benefits and information relating to a home loan or grant application, including but not limited to financial information provided in connection with the application.

**SECTION 42.** ORS 196.165 is amended to read:

196.165. (1) The Columbia River Gorge Commission established under ORS 196.150 may designate its employees as employees and the commission as an employer subject to the Oregon Public Employees Retirement System under ORS chapters 238 and 238A **and sections 16 to 35 of this 2016 Act** or as an employer and employees subject to a retirement system provided by the State of Washington under the laws of the State of Washington.

(2) The commission may designate its employees as employees eligible under benefit plans provided under ORS 243.105 to 243.285 or under benefit plans provided under the laws of the State of Washington.

**SECTION 43.** ORS 237.620 is amended to read:

237.620. (1) Except as provided in this section, all public employers of police officers or firefighters shall provide retirement benefits to those employees under the Public Employees Retirement System.

(2) Notwithstanding subsection (1) of this section, a public employer of police officers or firefighters need not provide retirement benefits to those employees under the Public Employees Retirement System if the Public Employees Retirement Board determines that the public employer provides retirement benefits to each of the following classes of employees that are equal to or better than the retirement benefits that would be provided to the equivalent classes of employees under the Public Employees Retirement System:

(a) Police officers or firefighters who are entitled to receive benefits only under ORS chapter 238 and who established membership in the system before January 1, 1996, as described in ORS 238.430 (2);

(b) Police officers or firefighters who are entitled to receive benefits only under ORS chapter 238 and who established membership in the system on or after January 1, 1996, and before August 29, 2003, as described in ORS 238A.025 (4); and

(c) Police officers or firefighters who establish membership in the system on or after August 29, 2003, and are entitled to benefits only under the Oregon Public Service Retirement Plan.

**(d) Police officers or firefighters who establish membership in the system on or after the effective date of this 2016 Act, and are entitled to benefits only under sections 16 to 35 of this 2016 Act.**

(3) A public employer that provides retirement benefits under subsection (2) of this section must provide that:

(a) If an employee to whom the public employer provides retirement benefits dies before the employee's effective date of retirement, a former spouse of the employee is entitled to a death benefit if and to the extent provided for in the terms of any judgment of annulment or dissolution of marriage or of separation, or the terms of any court order or court-approved property settlement agreement incident to any judgment of annulment or dissolution of marriage or of separation, as if the former spouse were the surviving spouse of the employee, as provided in ORS 237.600.

(b) If an employee to whom the public employer provides retirement benefits dies before the employee's effective date of retirement and has a dependent child who is not supported by the former spouse who is treated as the surviving spouse under paragraph (a) of this subsection, the dependent child is entitled to a death benefit.

(4) Notwithstanding subsection (3) of this section, a former spouse or dependent child of an employee is not entitled to a death benefit if, before the death of the employee, the former spouse or dependent child has commenced

1 receiving a retirement benefit provided for in the terms of any judgment of  
2 annulment or dissolution of marriage or of separation, or the terms of any  
3 court order or court-approved property settlement agreement incident to any  
4 judgment of annulment or dissolution of marriage or of separation, as pro-  
5 vided in ORS 237.600.

6 (5) At such times as may be established by board rule, the Public Em-  
7 ployees Retirement Board shall review the retirement benefits provided by  
8 a public employer of police officers or firefighters that does not provide re-  
9 tirement benefits for those employees under the Public Employees Retirement  
10 System. The review must be conducted at the expense of the public employer.  
11 Based on the review, the board shall determine whether the public employer  
12 complies with the requirements of subsection (2) of this section. If the board  
13 determines that the public employer does not comply with the requirements  
14 of subsection (2) of this section for any class of employees described in sub-  
15 section (2) of this section, the public employer must provide that class of  
16 employees with retirement benefits adequate to meet the requirements of  
17 subsection (2) of this section. If the public employer fails to provide those  
18 benefits, any employee within the class may bring an action in circuit court  
19 to compel compliance with the requirements of this section.

20 **SECTION 44.** ORS 237.650 is amended to read:

21 237.650. (1) Except as provided in this section, a person who is appointed  
22 or elected as a member of the Legislative Assembly and who is a member of  
23 the Public Employees Retirement System at the time of the appointment or  
24 election may make a retirement plan election in the manner provided by this  
25 section. If a person who is permitted to make an election under this section  
26 does not make a retirement plan election under subsection (2), (3), (4), [or]  
27 (5), (6) or (7) of this section, the person is deemed to have elected a retire-  
28 ment plan as provided in subsection [(6)] (8) of this section.

29 (2) An active or inactive member of the Public Employees Retirement  
30 System who is appointed or elected as a member of the Legislative Assembly,  
31 and who established membership in the system before August 29, 2003, as

described in ORS 238A.025, may:

(a) Elect to remain a member of the system under ORS chapter 238 for the purpose of service in the Legislative Assembly;

(b) Decline to remain a member of the system under ORS chapter 238 and elect to become a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the Legislative Assembly; or

(c) Decline to remain a member of the system under ORS chapter 238 or to become a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the Legislative Assembly.

(3) A retired member of the Public Employees Retirement System who is appointed or elected as a member of the Legislative Assembly, and who established membership in the system before August 29, 2003, as described in ORS 238A.025, may:

(a) Elect to become an active member of the system under ORS chapter 238 for the purpose of service in the Legislative Assembly;

(b) Decline to become an active member of the system under ORS chapter 238 and elect to become a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the Legislative Assembly; or

(c) Decline to become an active member of the system under ORS chapter 238 or to become a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the Legislative Assembly.

(4) An active or inactive member of the Public Employees Retirement System who is appointed or elected as a member of the Legislative Assembly, and who established membership in the system on or after August 29, 2003, as described in ORS 238A.025, **and before January 1, 2017, as described in section 17 of this 2016 Act**, may:

(a) Elect to remain a member of the system under ORS chapter 238A for the purpose of service in the Legislative Assembly;

(b) Decline to remain a member of the system under ORS chapter 238A

and elect to become a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the Legislative Assembly; or

(c) Decline to remain a member of the system under ORS chapter 238A or to become a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the Legislative Assembly.

(5) A retired member of the Public Employees Retirement System who is appointed or elected as a member of the Legislative Assembly, and who established membership in the system on or after August 29, 2003, as described in ORS 238A.025, **and before January 1, 2017, as described in section 17 of this 2016 Act**, may:

(a) Elect to become an active member of the system under ORS chapter 238A for the purpose of service in the Legislative Assembly;

(b) Decline to become an active member of the system under ORS chapter 238A and elect to become a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the Legislative Assembly; or

(c) Decline to become an active member of the system under ORS chapter 238A or to become a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the Legislative Assembly.

**(6) An active or inactive member of the Public Employees Retirement System who is appointed or elected as a member of the Legislative Assembly, and who established membership in the system on or after January 1, 2017, may:**

**(a) Elect to remain a member of the system under sections 16 to 35 of this 2016 Act for the purpose of service in the Legislative Assembly;**

**(b) Decline to remain a member of the system under sections 16 to 35 of this 2016 Act and elect to become a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of ser-**

1 **vice in the Legislative Assembly; or**

2 **(c) Decline to remain a member of the system under sections 16 to**  
3 **35 of this 2016 Act or to become a legislator member of the state de-**  
4 **ferred compensation plan under ORS 237.655 for the purpose of service**  
5 **in the Legislative Assembly.**

6 **(7) A retired member of the Public Employees Retirement System**  
7 **who is appointed or elected as a member of the Legislative Assembly,**  
8 **and who established membership in the system on or after January 1,**  
9 **2017, may:**

10 **(a) Elect to become an active member of the system under sections**  
11 **16 to 35 of this 2016 Act for the purpose of service in the Legislative**  
12 **Assembly;**

13 **(b) Decline to become an active member of the system under**  
14 **sections 16 to 35 of this 2016 Act and elect to become a legislator**  
15 **member of the state deferred compensation plan under ORS 237.655 for**  
16 **the purpose of service in the Legislative Assembly; or**

17 **(c) Decline to become an active member of the system under**  
18 **sections 16 to 35 of this 2016 Act or to become a legislator member of**  
19 **the state deferred compensation plan under ORS 237.655 for the pur-**  
20 **pose of service in the Legislative Assembly.**

21 **[(6)] (8) Written notice of an election under subsection (2), (3), (4) [or],**  
22 **(5), (6) or (7) of this section must be given to the Public Employees Retire-**  
23 **ment Board not more than 30 days after the person takes office. If the board**  
24 **does not receive written notice of the election within 30 days after the per-**  
25 **son takes office:**

26 **(a) A person described in subsection (2) of this section is deemed to have**  
27 **elected to remain a member of the Public Employees Retirement System un-**  
28 **der ORS chapter 238 for the purpose of service in the Legislative Assembly.**

29 **(b) A person described in subsection (3) of this section is deemed to have**  
30 **declined to become an active member of the system under ORS chapter 238**  
31 **or to become a legislator member of the state deferred compensation plan**

under ORS 237.655, and remains a retired member of the system under ORS chapter 238 for the purpose of service in the Legislative Assembly.

(c) A person described in subsection (4) of this section is deemed to have elected to remain a member of the Public Employees Retirement System under ORS chapter 238A for the purpose of service in the Legislative Assembly.

(d) A person described in subsection (5) of this section is deemed to have declined to become an active member of the system under ORS chapter 238A or to become a legislator member of the state deferred compensation plan under ORS 237.655, and remains a retired member of the system under ORS chapter 238A for the purpose of service in the Legislative Assembly.

**(e) A person described in subsection (6) of this section is deemed to have elected to remain a member of the Public Employees Retirement System under sections 16 to 35 of this 2016 Act for the purpose of service in the Legislative Assembly.**

**(f) A person described in subsection (7) of this section is deemed to have declined to become an active member of the system under sections 16 to 35 of this 2016 Act or to become a legislator member of the state deferred compensation plan under ORS 237.655, and remains a retired member of the system under sections 16 to 35 of this 2016 Act for the purpose of service in the Legislative Assembly.**

[(7)] **(9)** An election under subsection (3)(b) or (c) [or], (5)(b) or (c) **or (7)(b) or (c)** of this section does not affect the status of a person as a retired member of the system and a recipient of retirement benefits under ORS chapter 238 or 238A **or sections 16 to 35 of this 2016 Act.**

[(8)] **(10)** An election under this section does not affect the ability of a person appointed or elected as a member of the Legislative Assembly to participate in the state deferred compensation plan in the manner provided by ORS 243.401 to 243.507 as other than a legislator member under ORS 237.655.

**SECTION 45.** ORS 238.105 is amended to read:

238.105. (1) Whenever, within five years after the employee is separated

from all service entitling the employee to membership in the system, an employee who has withdrawn the amount credited to the member account of the member reenters the service of an employer participating in the system, the employee's rights in the system that were forfeited by the withdrawal shall be restored upon repaying to the board within one year after reentering the service of the employer, the full amount so withdrawn together with the interest that would have been accumulated on the sum had the amount not been withdrawn.

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

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

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

(c) Withdrawal of individual accounts pursuant to ORS 238A.375; **or**

**(d) Withdrawal of member accounts under section 29 of this 2016 Act.**

**SECTION 46.** ORS 238.115 is amended to read:

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

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

(B) Pays to the board in a lump sum for credit to the member account of the member the amount withdrawn and interest on the amount withdrawn compounded annually for each year or portion of a year after the date of the



1 withdrawal and before the effective date of retirement of the member. The  
2 interest shall be computed at the annual rate of 7.5 percent.

3 (b) If a member who obtains restoration of creditable service as provided  
4 in this subsection does not obtain restoration of all creditable service for-  
5 feited by the withdrawal pursuant to service after reentry, the payment un-  
6 der paragraph (a) of this subsection shall be reduced proportionately to  
7 reflect the percentage of creditable service restored.

8 (c) A member who obtains restoration of creditable service as provided in  
9 this subsection is not entitled to elect to receive the service retirement  
10 benefit described in ORS 238.305 (2) or (3).

11 (2) A member who forfeited creditable service rendered to a public em-  
12 ployer before March 27, 1953, because under ORS 237.976 (2) the employee  
13 withdrew contributions of the employee to the Public Employees Retirement  
14 System established by chapter 401, Oregon Laws 1945, and who did not obtain  
15 restoration of creditable service so forfeited as provided in chapter 857,  
16 Oregon Laws 1977, shall, upon retirement, receive restoration of creditable  
17 service so forfeited, if the member, before the effective date of retirement of  
18 the member:

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

21 (b) Pays to the board in a lump sum for credit to the member account of  
22 the member an amount determined by the board to be equal to the full  
23 amount of contributions so withdrawn and the interest that would have ac-  
24 cumulated to the regular account of the member had those contributions not  
25 been withdrawn.

26 (3)(a) A member of the Public Employees Retirement System who was a  
27 member of an association established pursuant to ORS chapter 239 (1997  
28 Edition), but separated from all service entitling the employee to membership  
29 in the system of the association and withdrew the amount credited to the  
30 member account of the employee in the retirement fund of the association,  
31 and who, after that separation, entered the service of an employer in the

field of education participating in the Public Employees Retirement System and served as an active member of that system for 10 years after that entry, and who has not otherwise obtained restoration of all creditable service forfeited by the withdrawal, shall obtain creditable service as a member of the Public Employees Retirement System equal to all creditable service forfeited by the withdrawal if the member within 90 days before the effective date of retirement of the member:

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

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

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

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

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

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

(c) Withdrawal of individual accounts pursuant to ORS 238A.375; **or**

**(d) Withdrawal of member accounts under section 29 of this 2016 Act.**

**SECTION 47.** ORS 238.265 is amended to read:

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

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

employers;

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

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

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

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

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

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

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

(4) A member who is vested in the pension program established under ORS chapter 238A and who is eligible to withdraw from the pension program under ORS 238A.120 may withdraw a member account under this section only if the member also withdraws from the pension program. A member who has an individual account or accounts in the individual account program established under ORS chapter 238A **or a member account under sections 16**

1 **to 35 of this 2016 Act**, may withdraw a member account under this section  
 2 only if the member also withdraws all individual **and member** accounts  
 3 pursuant to ORS 238A.375 **and section 29 of this 2016 Act**. A member who  
 4 has an account established under ORS 238.440 may withdraw a member ac-  
 5 count under this section only if the member also withdraws the account es-  
 6 tablished under ORS 238.440.

7 (5) Withdrawal of [*a member*] **an** account under this section cancels all  
 8 membership rights in the system, including the right to claim credit for any  
 9 employment before withdrawal.

10 **SECTION 48.** ORS 238.445 is amended to read:

11 238.445. (1) Except as provided in this section, the right of a person to a  
 12 pension, an annuity or a retirement allowance, to the return of contribution,  
 13 the pension, annuity or retirement allowance itself, any optional benefit or  
 14 death benefit, or any other right accrued or accruing to any person under  
 15 the provisions of this chapter or ORS chapter 238A **or sections 16 to 35 of**  
 16 **this 2016 Act**, and the money in the various funds created by ORS 238.660  
 17 and 238.670, shall be exempt from garnishment and all state, county and  
 18 municipal taxes heretofore or hereafter imposed, except as provided under  
 19 ORS chapter 118, shall not be subject to execution, garnishment, attachment  
 20 or any other process or to the operation of any bankruptcy or insolvency law  
 21 heretofore or hereafter existing or enacted, and shall be unassignable.

22 (2) Subsection (1) of this section does not apply to state personal income  
 23 taxation of amounts paid under this chapter and ORS chapter 238A **or**  
 24 **sections 16 to 35 of this 2016 Act**.

25 (3) Unless otherwise ordered by a court under ORS 25.387, the exemption  
 26 from execution or other process granted under this section applies to 50  
 27 percent of amounts paid under this chapter and ORS chapter 238A **or**  
 28 **sections 16 to 35 of this 2016 Act** if the execution or other process is issued  
 29 for a support obligation or an order or notice entered or issued under ORS  
 30 chapter 25, 107, 108, 109, 110, 416, 419B or 419C.

31 **SECTION 49.** ORS 238.455 is amended to read:

1       238.455. (1)(a) Whenever a member of the system is retired for service and  
2 is entitled to receive a retirement allowance or benefit that is payable  
3 monthly, and the Public Employees Retirement Board is unable to calculate  
4 the amount of the monthly payment in time to allow mailing of the monthly  
5 payment to the member within 62 days of the date the first monthly payment  
6 is due, the board shall calculate an estimated amount for the monthly pay-  
7 ment based on the information then available to the board and shall mail  
8 that payment to the member within 62 days of the date the first monthly  
9 payment is due.

10       (b) Whenever a member of the system is retired for disability and is en-  
11 titled to receive a retirement allowance or benefit that is payable monthly,  
12 and the board is unable to calculate the amount of the monthly payment in  
13 time to allow mailing of the monthly payment to the member within 10 days  
14 of either the date the board approves the member's application or the date  
15 that the first monthly payment is due, whichever is later, the board shall  
16 calculate an estimated amount for the monthly payment based on the infor-  
17 mation then available to the board and shall mail that payment to the  
18 member within 10 days of the date the board approves the member's disabil-  
19 ity benefit, the date the board receives the member's election of one of the  
20 optional forms of disability retirement allowance or the date the first  
21 monthly payment is due, whichever is later.

22       (2) The board shall continue to mail estimated payments under subsection  
23 (1) of this section until such time as the correct amount of the monthly  
24 payment is determined.

25       (3) The board shall notify the member receiving an estimated payment  
26 under subsection (1) of this section that the payment is an estimated payment  
27 only. The board shall further notify the member of the provisions of sub-  
28 section (4) of this section.

29       (4) If the board determines that any estimated payment made to the  
30 member under subsection (1) of this section resulted in payment to the  
31 member of an amount other than the correct amount due the member as a

1 retirement allowance or benefit, the board shall immediately so notify the  
 2 member. Thereafter, the board may increase or decrease the monthly payment  
 3 to the member until such time as the total difference between the amount  
 4 or amounts the member received and the amount or amounts the member  
 5 should have received is accounted for. Thereafter the member shall receive  
 6 the monthly payment as finally calculated by the board.

7 (5) If the estimated payment made to the member under subsection (1) of  
 8 this section results in an underpayment to the member of \$10 or more a  
 9 month, the board shall pay interest on the balance of such underpayment at  
 10 a rate established by rule of the board until such time as the underpayment  
 11 is paid to the member pursuant to subsection (4) of this section.

12 (6) No member shall have any right to any allowance or other benefit  
 13 other than that provided for in this chapter [and] **or** ORS chapter 238A **or**  
 14 **sections 16 to 35 of this 2016 Act** based on the board's estimate under this  
 15 section or based on any other estimate made by the board for any other  
 16 purpose under this chapter [and] **or** ORS chapter 238A **or sections 16 to 35**  
 17 **of this 2016 Act.**

18 **SECTION 50.** ORS 238.465 is amended to read:

19 238.465. (1) Notwithstanding ORS 238.445 or any other provision of law,  
 20 payments under this chapter or ORS chapter 238A **or sections 16 to 35 of**  
 21 **this 2016 Act** of any pension, annuity, retirement allowance, disability ben-  
 22 efit, death benefit, refund benefit or other benefit that would otherwise be  
 23 made to a person entitled thereto under this chapter or ORS chapter 238A  
 24 **or sections 16 to 35 of this 2016 Act** shall be paid, in whole or in part, by  
 25 the Public Employees Retirement Board to an alternate payee if and to the  
 26 extent expressly provided for in the terms of any judgment of annulment or  
 27 dissolution of marriage or of separation, or the terms of any court order or  
 28 court-approved property settlement agreement incident to any judgment of  
 29 annulment or dissolution of marriage or of separation. Except as provided  
 30 in subsection (5) of this section, the total actuarial value of benefits payable  
 31 to a member and to an alternate payee under this section may not be greater

1 than the value of the benefits the member would otherwise be eligible to  
2 receive if the annulment or dissolution of marriage or separation had not  
3 occurred. Any payment under this subsection to an alternate payee bars re-  
4 covery by any other person.

5 (2) A judgment, order or settlement providing for payment to an alternate  
6 payee under subsection (1) of this section may also provide:

7 (a) That payments to the alternate payee may commence, at the election  
8 of the alternate payee, at any time after the earlier of:

9 (A) The earliest date the member would be eligible to receive retirement  
10 benefits if the member separates from service; or

11 (B) The date the member actually separates from service due to death,  
12 disability, retirement or termination of employment.

13 (b) That the alternate payee may elect to receive payment in any form  
14 of pension, annuity, retirement allowance, disability benefit, death benefit,  
15 refund benefit or other benefit, except a benefit in the form of a joint and  
16 survivor annuity, that would be available to the member under this chapter  
17 or ORS chapter 238A **or sections 16 to 35 of this 2016 Act**, or that would  
18 be available to the member if the member retired or separated from service  
19 at the time of election by the alternate payee, without regard to the form  
20 of benefit elected by the member.

21 (c) That the alternate payee's life is the measuring life for the purpose  
22 of measuring payments to the alternate payee under the form of benefit se-  
23 lected by the alternate payee and for the purpose of determining necessary  
24 employer reserves.

25 (d) Except as provided in ORS 238.305 (10) and 238.325 (7), that any person  
26 designated by the member as a beneficiary under ORS 238.300, 238.305,  
27 238.325, 238A.190 or 238A.400 **or section 30 of this 2016 Act** be changed,  
28 even though the member has retired and has begun receiving a retirement  
29 allowance or pension. If a change of beneficiary is ordered under this para-  
30 graph, the board shall adjust the anticipated benefits that would be payable  
31 to the member and the beneficiary to ensure that the cost to the system of

1 providing benefits to the member and the new beneficiary does not exceed  
2 the cost that the system would have incurred to provide benefits to the  
3 member and the original beneficiary. The judgment, order or settlement may  
4 not provide for any change to the option selected by the retired member  
5 under ORS 238.300, 238.305, 238.320, 238.325, 238A.190 or 238A.400 as to the  
6 form of the retirement benefit.

7 (e) That death benefits under ORS 238A.230 to which the alternate payee  
8 has been entitled as the spouse of a member shall be available to the alter-  
9 nate payee after the effective date of the judgment of annulment or dissol-  
10 ution of marriage or of separation.

11 (3) The board shall adopt rules that provide for:

12 (a) The creation of a separate account in the name of the alternate payee  
13 reflecting the judgment's, order's or agreement's distribution of the member's  
14 benefits under this chapter or ORS chapter 238A **or sections 16 to 35 of this**  
15 **2016 Act**;

16 (b) The establishing of criteria to determine whether domestic relations  
17 judgments, orders and agreements comply with this section; and

18 (c) The definitions and procedures for the administration of this section.

19 (4) An alternate payee may designate a beneficiary for the purposes of  
20 death benefits payable under ORS 238.390 and 238.395 **and section 30 of this**  
21 **2016 Act**. Subject to ORS 238A.410 (2), an alternate payee may designate a  
22 beneficiary for the purposes of death benefits payable under ORS 238A.410.  
23 If the alternate payee fails to designate a beneficiary for the purposes of  
24 death benefits payable under ORS 238.390 and 238.395 **and section 30 of this**  
25 **2016 Act**, the benefits shall be paid as provided by ORS 238.390 (2) **and**  
26 **section 30 (2) of this 2016 Act**. If the alternate payee fails to designate a  
27 beneficiary for the purposes of death benefits payable under ORS 238A.410,  
28 the benefits shall be paid as provided by ORS 238A.410 (3). If a judgment,  
29 order or agreement awards an interest to an alternate payee, and if the al-  
30 ternate payee predeceases the member before the alternate payee has com-  
31 menced receiving benefits, the alternate payee shall be considered a member



1 of the system who died before retiring for the purposes of the death benefits  
2 provided in ORS 238.390, 238.395, 238A.230 and 238A.410 **and section 30 of**  
3 **this 2016 Act**, but for purposes of the death benefits provided in ORS 238.395,  
4 the alternate payee shall be considered a member of the system who died  
5 before retiring only if the member would have been eligible for death benefits  
6 under ORS 238.395 had the member died at the same time as the alternate  
7 payee. Payment of the death benefits to the beneficiaries, estate or other  
8 persons entitled to receive the benefits under ORS 238.390, 238.395, 238A.230  
9 and 238A.410 **and section 30 of this 2016 Act**, shall constitute payment in  
10 full of the alternate payee's interest under the judgment, order or agreement.

11 (5) Any increase in the retirement allowance provided to the member shall  
12 increase the amounts paid to the alternate payee in the same proportion,  
13 except that:

14 (a) An alternate payee is not entitled to receive cost-of-living adjustments  
15 under ORS 238.360 or any other retirement allowance increase until benefits  
16 are first paid from the system on behalf of the member; and

17 (b) Cost-of-living adjustments under ORS 238.360 or 238A.210 to the re-  
18 tirement allowance paid to an alternate payee shall be calculated on the  
19 basis of the amount of the alternate payee's yearly allowance or yearly pen-  
20 sion or benefit, as those terms are defined in ORS 238.360 and 238A.210.

21 (6) An alternate payee under this section is not eligible to receive the  
22 benefits provided under ORS 238.410, 238.415, 238.420 and 238.440 by reason  
23 of the provisions of this section.

24 (7) An alternate payee who elects to begin receiving payments under  
25 subsection (1) of this section before the member's effective date of retirement  
26 is not eligible to receive any additional payment by reason of credit in the  
27 system acquired by the member after the alternate payee begins to receive  
28 payments.

29 (8) Subsection (1) of this section applies only to payments made by the  
30 board after the date of receipt by the board of written notice of the judg-  
31 ment, order or agreement and such additional information and documenta-

tion as the board may prescribe.

(9) Whenever the board is required to make payment to an alternate payee under the provisions of this section, the board shall charge and collect out of the benefits payable to the member and the alternate payee actual and reasonable administrative expenses and related costs incurred by the board in obtaining data and making calculations that are necessary by reason of the provisions of this section. The board may not charge more than \$300 for total administrative expenses and related costs incurred in obtaining data or making calculations that are necessary by reason of the provisions of this section. The board shall allocate expenses and costs charged under the provisions of this subsection between the member and the alternate payee based on the fraction of the benefit received by the member or alternate payee.

(10) Unless otherwise provided by the judgment, order or agreement, a member has no interest in the benefit payable to an alternate payee under this section. Upon the death of an alternate payee, the board shall make such payment to the beneficiary designated by the alternate payee as may be required under the form of benefit elected by the alternate payee. If a death benefit is payable under ORS 238.390 or 238.395 **or section 30 of this 2016 Act** by reason of the death of an alternate payee, payment of the death benefit shall be made to the beneficiary designated by the alternate payee under ORS 238.390 (1), or as otherwise provided by ORS 238.390 and 238.395 **and section 30 of this 2016 Act**.

(11) As used in this section, "court" means any court of appropriate jurisdiction of this or any other state or of the District of Columbia.

**SECTION 51.** ORS 238.630 is amended to read:

238.630. (1) The governing authority of the system shall be a board known as the Public Employees Retirement Board and consisting of five members appointed by the Governor subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Except as otherwise provided in ORS 238.640, the term of each member shall be three years. The Governor shall designate one member to serve as chairperson, who shall serve as

1 chairperson at the pleasure of the Governor.

2 (2) The board shall have:

3 (a) The powers and privileges of a corporation, including the right to sue  
4 and be sued in its own name as such board; and

5 (b) The power and duty, subject to the limitations of this chapter and ORS  
6 chapter 238A **and sections 16 to 35 of this 2016 Act**, of managing the sys-  
7 tem.

8 (3) The board:

9 (a) Shall arrange for actuarial service for the system;

10 (b) Shall employ a director;

11 (c) Shall create such other positions as it deems necessary to sound and  
12 economical administration of the system, which positions the director shall  
13 fill by appointment;

14 (d) Shall, with the approval of the Director of the Oregon Department of  
15 Administrative Services, and as otherwise provided by law, fix the salaries  
16 of all persons employed for purposes of administering the system;

17 (e) Shall publish and distribute to all employer and employee members of  
18 the system an annual report including a summary of investments of moneys  
19 in the fund, investment earnings, significant legislative or administrative  
20 changes in the system and other pertinent information on the operation of  
21 the system for the preceding year;

22 (f) Shall determine the actuarial equivalency of optional forms of retire-  
23 ment allowances and pensions and adopt for that purpose the necessary  
24 actuarial equivalency factor tables in the manner provided by ORS 238.607,  
25 which shall constitute a part of the system; and

26 (g) Shall adopt rules and take all actions necessary to maintain quali-  
27 fication of the Public Employees Retirement System and the Public Employ-  
28 ees Retirement Fund as a qualified governmental retirement plan and trust  
29 under the Internal Revenue Code and under regulations adopted pursuant to  
30 the Internal Revenue Code. Rules under this paragraph may impose limits  
31 on contributions to the system, limits on benefits payable from the system

1 and other limitations or procedures required or imposed under federal law  
2 or regulation for the purpose of qualification of the Public Employees Re-  
3 tirement System and Public Employees Retirement Fund under the Internal  
4 Revenue Code as a governmental retirement plan and trust.

5 (4) The board established by this section shall succeed to all the duties  
6 and prerogatives of the Public Employees Retirement Board created by  
7 chapter 401, Oregon Laws 1945, in relation to the Public Employees Retire-  
8 ment Fund, and in addition shall perform all duties required of it by ORS  
9 237.950 to 237.980, in regard to moneys payable to or from such fund.

10 (5) The board shall identify by rule those records that must be maintained  
11 by participating public employers for the purposes of subsection (3)(g) of this  
12 section. A participating public employer shall maintain records for all em-  
13 ployees who are members of the system as required by board rules, and shall  
14 provide that information to the board upon request.

15 **SECTION 52.** ORS 238.645 is amended to read:

16 238.645. The system shall be administered, subject to the limitations of  
17 this chapter, ORS chapter 238A **and sections 16 to 35 of this 2016 Act** and  
18 the budget prescribed by the board, by the director provided for by ORS  
19 238.630 and by a staff which the board authorizes and which the director  
20 appoints. The director shall hold that position during the discretion of the  
21 board and the members of the staff shall hold their respective positions  
22 during the discretion of the director. No member of the staff may be removed  
23 from it, however, in a manner contrary to the laws of the state regarding  
24 civil service. The director shall furnish such bond as is required by the  
25 board.

26 **SECTION 53.** ORS 238.650 is amended to read:

27 238.650. (1) Subject to the limitations of this chapter and ORS chapter  
28 238A **and sections 16 to 35 of this 2016 Act**, the Public Employees Retire-  
29 ment Board shall, from time to time, establish rules for transacting its  
30 business and administering the system in accordance with the requirements  
31 of ORS chapter 183.

(2) All rules adopted by the board become part of the written plan document of the Public Employees Retirement System for the purpose of the status of the system and the Public Employees Retirement Fund as a qualified governmental retirement plan and trust under the Internal Revenue Code and under regulations adopted pursuant to the Internal Revenue Code.

**SECTION 54.** ORS 238.700 is amended to read:

238.700. All provisions of ORS 238.655, 238.705, 238.710 and 238.715 hereby are made applicable for enforcement of the requirements of this chapter and ORS chapter 238A **and sections 16 to 35 of this 2016 Act.**

**SECTION 55.** ORS 238.705 is amended to read:

238.705. (1) All public employers that are members of the system shall promptly and regularly remit to the Public Employees Retirement Board all contributions required of them by law and furnish all reports required by the board.

(2) Any public employer delinquent in remitting contributions shall be charged interest on the total amount of contributions due from it at the rate of one percent per month or fraction thereof during which the public employer is delinquent. Interest so paid shall be deposited in the Public Employees Retirement Fund and shall be used by the board in paying administrative expenses of the system.

(3) If any state officer or agency fails to remit any contribution or other obligation required by law, the Public Employees Retirement Board, within 30 days after the date the request therefor has been made by it by registered mail or by certified mail with return receipt, may certify to the Oregon Department of Administrative Services the fact of such failure and the amount of the delinquent contribution or obligation, together with its request that such amount be set over from funds of the delinquent officer or agency to the credit of the Public Employees Retirement Fund. A copy of such certification and request shall be furnished the delinquent officer or agency. The department shall, within 10 days after receipt of the request of the board, approve the payment of such amount by the delinquent officer or agency

1 from funds allocated to the officer or agency for the current biennium and  
2 draw a warrant for payment of the amount of the contribution or obligation  
3 due out of funds in the State Treasury allocated to the use of the delinquent  
4 officer or agency.

5 (4) If any public employer other than a state agency fails to remit any  
6 contribution or pay any other obligation due under this chapter or ORS  
7 chapter 238A **or sections 16 to 35 of this 2016 Act**, the board may certify  
8 to the department the fact of such failure. Upon receipt of the certification  
9 the department shall withhold payment to the public employer of any reve-  
10 nues or funds in the State Treasury in which the public employer is entitled  
11 by law to share and which have been apportioned to the public employer  
12 until the board certifies to the department that the failure has been reme-  
13 died. The board shall send a copy of each certification it makes under this  
14 subsection to the public employer affected.

15 (5) Any public employer delinquent in making reports or supplying infor-  
16 mation concerning its employees in the manner required by the board shall  
17 be charged a penalty of the lesser of \$2,000 or one percent of the total annual  
18 contributions, for each month or fraction thereof during which the employer  
19 is delinquent. In addition, the board may send an auditor to the office of  
20 the employer to examine its records and to obtain the necessary reports, the  
21 entire cost of such audit to be paid by the delinquent employer. Penalties  
22 and other charges so paid shall be used by the board in paying administra-  
23 tive expenses of the system.

24 **SECTION 56.** ORS 238.715 is amended to read:

25 238.715. (1) If the Public Employees Retirement Board determines that a  
26 member of the Public Employees Retirement System or any other person re-  
27 ceiving a monthly payment from the Public Employees Retirement Fund has  
28 received any amount in excess of the amounts that the member or other  
29 person is entitled to under this chapter [and] **or** ORS chapter 238A **or**  
30 **sections 16 to 35 of this 2016 Act**, the board may recover the overpayment  
31 or other improperly made payment by:

1 (a) Reducing the monthly payment to the member or other person for as  
2 many months as may be determined by the board to be necessary to recover  
3 the overpayment or other improperly made payment; or

4 (b) Reducing the monthly payment to the member or other person by an  
5 amount actuarially determined to be adequate to recover the overpayment  
6 or other improperly made payment during the period during which the  
7 monthly payment will be made to the member or other person.

8 (2)(a) Any person who receives a payment from the Public Employees  
9 Retirement Fund and who is not entitled to receive that payment, including  
10 a member of the system who receives an overpayment, holds the improperly  
11 made payment in trust subject to the board's recovery of that payment under  
12 this section or by a civil action or other proceeding.

13 (b) The board may recover an improperly made payment in the manner  
14 provided by subsection (1) of this section from any person who receives an  
15 improperly made payment from the fund and who subsequently becomes en-  
16 titled to receive a monthly payment from the fund.

17 (c) The board may recover an improperly made payment by reducing any  
18 lump sum payment in the amount necessary to recover the improperly made  
19 payment if a person who receives an improperly made payment from the fund  
20 subsequently becomes entitled to receive a lump sum payment from the fund.

21 (3) Unless the member or other person receiving a monthly payment from  
22 the fund authorizes a greater reduction, the board may not reduce the  
23 monthly payment made to a member or other person under the provisions of  
24 subsection (1) of this section by an amount that is equal to more than 10  
25 percent of the monthly payment.

26 (4) Before reducing a benefit to recover an overpayment or erroneous  
27 payment, or pursuing any other collection action under this section, the  
28 board shall give notice of the overpayment or erroneous payment to the  
29 person who received the payment. The notice shall describe the manner in  
30 which the person who received the payment may appeal the board's deter-  
31 mination that an overpayment or erroneous payment was made, the action

the board may take if the person does not respond to the notice and the authority of the board to assess interest, penalties or costs of collection.

(5) If the board determines that an overpayment or erroneous payment was not caused by the system or by a participating public employer, the board may assess interest in an amount equal to one percent per month on the balance of the improperly made payment until the payment is fully recovered. The board may also assess to the member or other person all costs incurred by the system in recovering the payment, including attorney fees. Interest and costs may be collected in the manner prescribed in subsections (1) and (2) of this section. The board may waive the interest and costs on an overpayment or other improperly made payment for good cause shown.

(6) Notwithstanding ORS 293.240, the board may waive the recovery of any payment or payments made to a person who was not entitled to receive the payment or payments if the total amount of the overpayment or other improperly made payments is less than \$50.

(7) A payment made to a person from the fund may not be recovered by the board unless within six years after the date that the payment was made the board has commenced proceedings to recover the payment. For the purposes of subsection (1) of this section, the board shall be considered to have commenced proceedings to recover the payment upon mailing of notice to the person receiving a monthly payment that the board has determined that an overpayment or other improperly made payment has been made.

(8) The remedies authorized under this section are supplemental to any other remedies that may be available to the board for recovery of amounts incorrectly paid from the fund to members of the system or other persons.

(9) The board shall adopt rules establishing the procedures to be followed by the board in recovering overpayments and erroneous payments under this section.

**SECTION 57.** ORS 243.800 is amended to read:

243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to 243.945 or **sections 16 to 35 of this 2016 Act**, the gov-



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

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

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

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

(3) An administrative or academic employee may make an irrevocable election to participate in the Optional Retirement Plan within six months after being employed. An election under this subsection is effective on the first day of the month following the completion of the requirements of subsection (2) of this section.

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

(a) Remains or becomes a member of the Public Employees Retirement System in accordance with ORS [*chapters*] **chapter 238** [*and*] **or 238A or sections 16 to 35 of this 2016 Act**; or

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

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

employed in the public university and the plan is in effect.

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

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

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

(d) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a vested member of the pension

1 program of the Oregon Public Service Retirement Plan as described in ORS  
2 238A.115 on the date that the election becomes effective, shall be considered  
3 an inactive member of the pension program by the Public Employees Re-  
4 tirement Board as of the effective date of the election. An employee who is  
5 subject to the provisions of this paragraph retains all the rights, privileges  
6 and options of an inactive member of the pension program. If the actuarial  
7 equivalent of the employee's benefit under the pension program at the time  
8 that the election becomes effective is \$5,000 or less, the employee may make  
9 a written request to the Public Employees Retirement Board for a transfer  
10 of the employee's interest under the pension program to the Optional Re-  
11 tirement Plan. The request must be made at the time the member elects to  
12 participate in the Optional Retirement Plan. Upon receiving the request, the  
13 Public Employees Retirement Board shall transfer the amount determined to  
14 be the actuarial equivalent of the employee's benefit under the pension pro-  
15 gram directly to the Optional Retirement Plan, and shall terminate the  
16 membership of the employee in the pension program.

17 (e) An administrative or academic employee who elects to participate in  
18 the Optional Retirement Plan, and who is a vested member of the individual  
19 account program of the Oregon Public Service Retirement Plan as described  
20 in ORS 238A.320 on the date that the election becomes effective, shall be  
21 considered an inactive member of the individual account program by the  
22 Public Employees Retirement Board as of the effective date of the election.  
23 An employee who is subject to the provisions of this paragraph retains all  
24 the rights, privileges and options of an inactive member of the individual  
25 account program. An administrative or academic employee who elects to  
26 participate in the Optional Retirement Plan, and who is a member of the  
27 individual account program of the Oregon Public Service Retirement Plan,  
28 may make a written request to the Public Employees Retirement Board that  
29 all amounts in the member's employee account, rollover account and em-  
30 ployer account, to the extent the member is vested in those accounts under  
31 ORS 238A.320, be transferred to the Optional Retirement Plan. The request

1 must be made at the time the member elects to participate in the Optional  
2 Retirement Plan. Upon receiving the request, the Public Employees Retirement  
3 Board shall transfer the amounts directly to the Optional Retirement  
4 Plan, and shall terminate the membership of the employee in the individual  
5 account program upon making the transfer.

6 **(f) An administrative or academic employee who elects to partic-**  
7 **ipate in the Optional Retirement Plan, and who is a vested member**  
8 **of the Fair Retirement Plan on the date that the election becomes ef-**  
9 **fective, shall be considered an inactive member of the Fair Retirement**  
10 **Plan as of the effective date of the election. An employee who is sub-**  
11 **ject to the provisions of this paragraph retains all the rights, privileges**  
12 **and options of an inactive member of the Fair Retirement Plan. An**  
13 **administrative or academic employee who elects to participate in the**  
14 **Optional Retirement Plan, and who is a member of the Fair Retirement**  
15 **Plan, may make a written request to the Public Employees Retirement**  
16 **Board that all amounts in the member's account, to the**  
17 **extent the member is vested in those accounts under section 26 of this**  
18 **2016 Act, be transferred to the Optional Retirement Plan. The request**  
19 **must be made at the time the member elects to participate in the**  
20 **Optional Retirement Plan. Upon receiving the request, the Public**  
21 **Employees Retirement Board shall transfer the amounts directly to**  
22 **the Optional Retirement Plan, and shall terminate the membership of**  
23 **the employee in the Fair Retirement Plan upon making the transfer.**

24 **[(f)] (g) Notwithstanding paragraphs (b), (d) [and], (e) and (f) of this**  
25 **subsection, the Public Employees Retirement Board may not treat any em-**  
26 **ployee as an inactive member under the provisions of this subsection for the**  
27 **purpose of receiving any benefit under ORS chapter 238 or 238A or sections**  
28 **16 to 35 of this 2016 Act that requires that the employee be separated from**  
29 **all service with participating public employers and with employers who are**  
30 **treated as part of a participating public employer's controlled group under**  
31 **the federal laws and rules governing the status of the Public Employees Re-**

tirement System and the Public Employees Retirement Fund as a qualified governmental retirement plan and trust.

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

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

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

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

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

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

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

(12) Benefits under the Optional Retirement Plan are payable to employ-

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

**SECTION 58.** ORS 243.830 is amended to read:

243.830. An agreement executed pursuant to ORS 243.820 by an employee who is subject to ORS chapter 238 or 238A **or sections 16 to 35 of this 2016 Act**, or a similar retirement program for public employees, in no way affects the contributions to be made or the benefits to be provided for such employee under ORS chapter 238 or 238A **or sections 16 to 35 of this 2016 Act** or the other similar program. Reduction of salary or forgoing a salary increase by a stated amount under ORS 243.820 shall not be deemed a reduction in salary for the purpose of such contributions and benefits.

**SECTION 59.** ORS 268.240 is amended to read:

268.240. (1) A district that is not participating in the Public Employees Retirement System may, by application to the board, include any class of employees of the district in the system [*established by ORS chapters 238 and 238A*] without entering into a contract of integration with the board under ORS 238.680.

(2) The board shall consider an application received under this section to be an application to become a participating employer [*under ORS chapters 238 and 238A*] **in the Public Employees Retirement System** but only to the extent of providing membership for the class of employees described in the application.

(3) The board, upon such terms as are set forth in a contract between the board and the employer, shall allow every employee in the specified class to become members of the Public Employees Retirement System [*in accordance with ORS chapters 238 and 238A*].

(4) When a district enters into a contract with the board under subsection

(3) of this section, the district shall agree to eventually extend [*coverage under ORS chapters 238 and 238A*] **membership in the Public Employees Retirement System** to all eligible district employees through successive contracts with the board.

(5) All employees who have completed the period of service with the public employer that is required under ORS 238.015, 238A.100 or 238A.300 **or section 21 of this 2016 Act** shall become members of the **Public Employees Retirement System** on a date specified by the board. All other employees in the described class shall become members upon completion of the required period of service.

(6) As used in this section, “board” means the Public Employees Retirement Board established under ORS 238.630.

**SECTION 60.** ORS 338.135 is amended to read:

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

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

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

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

(B) Both the executive officer of the sponsor and the public charter school governing body approve employment by the for-profit entity. The executive

officer or governing body may choose to grant approval under this subparagraph:

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

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

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

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

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

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

(4) An employee of a public charter school operating within a school district who is granted a leave of absence from the school district and returns to employment with the school district shall retain seniority and benefits as an employee pursuant to the terms of the leave of absence. Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of a public charter school not operating within the school district may make provisions for the return of the employee to employment with the school district.

(5) For purposes of ORS chapters 238 and 238A **and sections 16 to 35 of this 2016 Act**, a public charter school shall be considered a public employer and as such shall participate in the Public Employees Retirement System.

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



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

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

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

(8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member of a labor organization or organize with other employees to bargain collectively. Bargaining units at the public charter school may be separate from other bargaining units of the sponsor or of the school district in which the public charter school is located. Employees of a public charter school may be part of the bargaining units of the sponsor or of the school district in which the public charter school is located.

(9) An entity described in ORS 338.005 (5) may not waive the right to sponsor a public charter school in a collective bargaining agreement.

**SECTION 61.** ORS 338.135, as amended by section 7, chapter 327, Oregon Laws 2013, and section 5, chapter 647, Oregon Laws 2015, is amended to read:

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

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

1 school.

2 (b) If a virtual public charter school or the sponsor of a virtual public  
3 charter school contracts with a for-profit entity to provide educational ser-  
4 vices through the virtual public charter school, the for-profit entity may not  
5 be the employer of any employees of the virtual public charter school.

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

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

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

16 (4) An employee of a public charter school operating within a school  
17 district who is granted a leave of absence from the school district and re-  
18 turns to employment with the school district shall retain seniority and ben-  
19 efits as an employee pursuant to the terms of the leave of absence.  
20 Notwithstanding ORS 243.650 to 243.782, a school district that was the em-  
21 ployer of an employee of a public charter school not operating within the  
22 school district may make provisions for the return of the employee to em-  
23 ployment with the school district.

24 (5) For purposes of ORS chapters 238 and 238A **and sections 16 to 35 of**  
25 **this 2016 Act**, a public charter school shall be considered a public employer  
26 and as such shall participate in the Public Employees Retirement System.

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

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

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

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

7 (8) Notwithstanding ORS 243.650, a public charter school shall be con-  
8 sidered a school district for purposes of ORS 243.650 to 243.782. An employee  
9 of a public charter school may be a member of a labor organization or or-  
10 ganize with other employees to bargain collectively. Bargaining units at the  
11 public charter school may be separate from other bargaining units of the  
12 sponsor or of the school district in which the public charter school is lo-  
13 cated. Employees of a public charter school may be part of the bargaining  
14 units of the sponsor or of the school district in which the public charter  
15 school is located.

16 (9) An entity described in ORS 338.005 (5) may not waive the right to  
17 sponsor a public charter school in a collective bargaining agreement.

18 **SECTION 62.** ORS 341.290 is amended to read:

19 341.290. The board of education of a community college district shall be  
20 responsible for the general supervision and control of any and all community  
21 colleges operated by the district. Consistent with any applicable rules of the  
22 Higher Education Coordinating Commission, the board of education of a  
23 community college district may:

24 (1) Subject to ORS chapters 238 and 238A **and sections 16 to 35 of this**  
25 **2016 Act**, employ administrative officers, professional personnel and other  
26 employees, define their duties, terms and conditions of employment and pre-  
27 scribe compensation therefor, pursuant to ORS 243.650 to 243.782.

28 (2) Enact rules for the government of the community college, including  
29 professional personnel and other employees and students of the community  
30 college.

31 (3) Prescribe the educational program.

1 (4) Control use of and access to the grounds, buildings, books, equipment  
2 and other property of the district.

3 (5) Acquire, receive, hold, control, convey, sell, manage, operate, lease,  
4 lease-purchase, lend, invest, improve and develop any and all property of  
5 whatever nature given to or appropriated for the use, support or benefit of  
6 any activity under the control of the board, according to the terms and  
7 conditions of the gift or appropriation.

8 (6) Purchase real property upon a contractual basis when the period of  
9 time allowed for payment under the contract does not exceed 30 years.

10 (7) Fix standards of admission to the community college, prescribe and  
11 collect tuition for admission to the community college, including fixing dif-  
12 ferent tuition rates for students who reside in the district, students who do  
13 not reside in the district but are residents of the state and students who do  
14 not reside in the state.

15 (8) Prescribe and collect fees and expend funds so raised for special pro-  
16 grams and services for the students and for programs for the cultural and  
17 physical development of the students.

18 (9) Provide and disseminate to the public information relating to the  
19 program, operation and finances of the community college.

20 (10) Establish or contract for advisory and consultant services.

21 (11) Take, hold and dispose of mortgages on real and personal property  
22 acquired by way of gift or arising out of transactions entered into in ac-  
23 cordance with the powers, duties and authority of the board and institute,  
24 maintain and participate in suits and actions and other judicial proceedings  
25 in the name of the district for the foreclosure of the mortgages.

26 (12) Maintain programs, services and facilities, and, in connection there-  
27 with, cooperate and enter into agreements with any person or public or pri-  
28 vate agency.

29 (13) Provide student services including health, guidance, counseling and  
30 placement services, and contract therefor.

31 (14) Join appropriate associations and pay any required dues therefor

1 from resources of the district.

2 (15) Apply for federal funds and accept and enter into any contracts or  
3 agreements for the receipt of the funds from the federal government or its  
4 agencies for educational purposes.

5 (16) Exercise any other power, duty or responsibility necessary to carry  
6 out the functions under this section or required by law.

7 (17) Prescribe rules for the use and access to public records of the district  
8 that are consistent with ORS 192.420, and education records of students un-  
9 der applicable state and federal law and rules of the commission. Whenever  
10 a student has attained 18 years of age or is attending an institution of  
11 post-secondary education, the permission or consent required of and the  
12 rights accorded to a parent of the student regarding education records shall  
13 thereafter be required of and accorded to only the student. However, faculty  
14 records relating to matters such as conduct, personal and academic evalu-  
15 ations, disciplinary actions, if any, and other personal matters shall not be  
16 made available to public inspection for any purpose except with the consent  
17 of the person who is the subject of the record or upon order of a court of  
18 competent jurisdiction.

19 (18) Enter into contracts for the receipt of cash or property, or both, and  
20 establish charitable gift annuities pursuant to ORS 731.038; and, commit,  
21 appropriate, authorize and budget for the payment of or other disposition of  
22 general funds to pay, in whole or in part, sums due under an agreement for  
23 a charitable gift annuity, and to provide the necessary funding for reserves  
24 or other trust funds pursuant to ORS 731.038.

25 (19) Encourage gifts to the district by faithfully devoting the proceeds of  
26 the gifts to the district purposes for which intended.

27 (20) Build, furnish, equip, repair, lease, purchase and raze facilities; and  
28 locate, buy and acquire lands for all district purposes. Financing may be by  
29 any prudent method including but not limited to loans, contract purchase  
30 or lease. Leases authorized by this section include lease-purchase agreements  
31 under which the district may acquire ownership of the leased property at a

nominal price. The financing agreements may be for a term of up to 30 years except for lease arrangements which may be for a term of up to 50 years.

(21) Participate in an educational consortium with public and private institutions that offer upper division and graduate instruction. Community colleges engaged in consortiums may expend money, provide facilities and assign staff to assist those institutions offering upper division and graduate instruction.

(22) Enter into contracts of insurance or medical and hospital service contracts or may operate a self-insurance program as provided in ORS 341.312.

**SECTION 63.** ORS 353.117 is amended to read:

353.117. (1) Pursuant to ORS 353.050, Oregon Health and Science University may create and maintain an entity that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, as amended, for the purpose of conducting clinical care and practice and advancing other university missions by the faculty.

(2) Any entity created by the university under subsection (1) of this section shall be considered:

(a) A public employer for purposes of ORS 236.605 to 236.640 and ORS chapters 238 and 238A **and sections 16 to 35 of this 2016 Act**;

(b) A unit of local government for purposes of ORS 190.003 to 190.130;

(c) A public body for purposes of ORS 30.260 to 30.300 and 307.112;

(d) A public agency for purposes of ORS 200.090; and

(e) A public corporation for purposes of ORS 307.090.

**SECTION 64.** ORS 377.836 is amended to read:

377.836. (1) Except as otherwise provided by law, and except as provided in subsection (2) of this section, the provisions of ORS 279.835 to 279.855 and 283.085 to 283.092 and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to the Travel Information Council. The council is subject to all other statutes governing a state agency that do not conflict with ORS 377.700 to 377.844, including the tort liability provisions of ORS

30.260 to 30.300 and the provisions of ORS chapter 183. Subject to the requirements of ORS chapters 238 and 238A **and sections 16 to 35 of this 2016 Act**, the council's employees are members of the Public Employees Retirement System.

(2) The following shall apply to the council:

(a) ORS 279A.250 to 279A.290;

(b) ORS 282.210 to 282.230; and

(c) ORS 293.235, 293.240, 293.245, 293.611, 293.625 and 293.630.

**SECTION 65.** ORS 396.330 is amended to read:

396.330. (1) State employees of the Oregon Military Department who are not otherwise members of the Oregon National Guard may be required as a condition of employment to obtain membership in the Oregon State Defense Force when in the judgment of the Adjutant General the membership maintains or enhances the readiness and stability of the department to provide services if the need for Oregon State Defense Force assistance should arise. The decision of the Adjutant General shall be carried out by written regulation and shall not be subject to collective bargaining.

(2) Members of the Oregon National Guard or Oregon State Defense Force who are ordered to state active duty under the provisions of ORS chapter 399 shall be considered as being in the military service of the state and shall be considered temporary employees of the military department.

(3) State employees of the military department may be ordered to state active duty under ORS chapter 399 without jeopardizing their status as regular employees. Employees so ordered must be in an authorized leave status from their regular military department employment during the period served on active duty.

(4) State employees of the military department shall be subject to ORS chapter 240 or 243 when performing as regular employees.

(5) Members of the Oregon National Guard who are serving under Title 10 or Title 32 of the United States Code are not eligible, by reason of that service, for the rights or benefits of public employees granted or authorized

1 by ORS chapter 236, 237, 238, 238A, 240 or 243 **or sections 16 to 35 of this**  
2 **2016 Act.** Except as required by federal law or regulation, ORS chapters 652,  
3 653, 654, 656, 657, 659, 659A, 661 and 663 do not apply to members of the  
4 Oregon National Guard who are serving under Title 10 or Title 32 of the  
5 United States Code.

6 **SECTION 66.** ORS 576.306 is amended to read:

7 576.306. (1) A commodity commission may contract with an independent  
8 contractor for the performance of any services. However, the commission  
9 may not contract with an independent contractor to perform the discretion-  
10 ary functions of the commission. ORS 279.835 to 279.855 and ORS chapters  
11 240, 279A, 279B and 279C do not apply to the commission in obtaining such  
12 services, except that a contract for such services may not take effect until  
13 approved by the State Department of Agriculture as provided in subsection  
14 (7) of this section.

15 (2) The commission may rent space or acquire supplies and equipment  
16 from any contractor as described in subsection (1) of this section. ORS  
17 chapters 276, 278, 279A, 279B, 279C and 283 and ORS 279.835 to 279.855,  
18 283.085 to 283.092 and 291.038 do not apply to such rentals or acquisitions.

19 (3) Except as provided in this section, a contractor described in subsection  
20 (1) of this section shall be considered an independent contractor and not an  
21 employee, eligible employee, public employee or employee of the state for  
22 purposes of Oregon law, including ORS chapters 236, 238, 238A, 240, 243, 291,  
23 292, 316 and 652 **and sections 16 to 35 of this 2016 Act.**

24 (4) Nothing in this section precludes the state or a commission from being  
25 considered the employer of the contractor described in subsection (1) of this  
26 section for purposes of unemployment compensation under ORS chapter 657  
27 and ORS 670.600.

28 (5) A contractor described in subsection (1) of this section shall be con-  
29 sidered an independent contractor and not a worker for purposes of ORS  
30 chapter 656 and ORS 670.600.

31 (6) A contractor described in subsection (1) of this section may not be



considered a public official, public officer, state officer or executive official for purposes of Oregon law, including ORS chapters 236, 244, 292, 295 and 297 and ORS 171.725 to 171.785.

(7) The State Department of Agriculture shall review the contract described in subsection (1) of this section for the adequacy of the clauses pertaining to statement of work, starting and ending dates, consideration, subcontracts, funds authorized in the budget, amendments, termination, compliance with applicable law, assignment and waiver, access to records, indemnity, ownership of work product, nondiscrimination, successors in interest, attorney fees, tax certification or merger or any other clause the department deems necessary.

(8) The Oregon Department of Administrative Services, in consultation with the State Department of Agriculture, shall adopt rules necessary for the screening and selection of independent contractors under this section.

(9) Except as provided in subsection (8) of this section, the State Department of Agriculture may promulgate any rules necessary for the administration and enforcement of this section.

**SECTION 67.** ORS 777.775 is amended to read:

777.775. (1) An export trading corporation is not a contracting agency for the purposes of ORS 279A.055, 279A.065, 279A.070, 279A.075, 279A.100, 279A.105, 279A.120, 279C.005, 279C.100 to 279C.125, 279C.300 to 279C.470 and 279C.570 and ORS chapter 279B, except ORS 279B.025, 279B.235, 279B.240, 279B.270, 279B.275 and 279B.280.

(2) An export trading corporation is not a public employer for the purposes of ORS chapters 238 and 238A **and sections 16 to 35 of this 2016 Act.**

**SECTION 68.** ORS 410.614 is amended to read:

410.614. (1) Notwithstanding ORS 243.650 (19) and (20), the Home Care Commission shall be considered a public employer and home care workers shall be considered public employees governed by ORS 243.650 to 243.782.

(2) Home care workers have the right to form, join and participate in the

activities of labor organizations of their own choosing for the purpose of representation and collective bargaining with the commission on matters concerning employment relations. These rights shall be exercised in accordance with the rights granted to public employees with mediation and interest arbitration under ORS 243.742 as the method of concluding the collective bargaining process.

(3) Home care workers are not public employees with respect to the Public Employees Retirement System, the Oregon Public Service Retirement Plan, **sections 16 to 35 of this 2016 Act** or the Public Employees' Benefit Board.

(4) Home care workers do not have the right to strike.

**SECTION 69.** ORS 238.447 is amended to read:

238.447. (1) Notwithstanding ORS 238.445, any retirement allowance, pension payment, lump sum payment or other distribution payable under this chapter or ORS chapter 238A **or sections 16 to 35 of this 2016 Act** to a person convicted of a felony is subject to execution, garnishment, attachment or other process to collect, and may be assigned to satisfy, the portion of a money award described in subsection (2) of this section that is included in a judgment entered in the criminal action as provided in ORS 18.048.

(2) Subsection (1) of this section applies only to the amount of a money award attributable to restitution ordered under ORS 137.106 or a compensatory fine ordered under ORS 137.101.

**SECTION 70.** ORS 238.460 is amended to read:

238.460. (1) If receipt in full by a person of a retirement allowance or other benefit under this chapter or ORS chapter 238A **or sections 16 to 35 of this 2016 Act** would prevent such person from receiving in full any other governmental pension to which the person is entitled, such person may waive for a calendar year sufficient monthly payments, or portions thereof, of retirement allowance or other benefit under this chapter or ORS chapter 238A **or sections 16 to 35 of this 2016 Act** to permit the person to receive in full the other governmental pension. The waiver shall be made in writing and

filed with the Public Employees Retirement Board not less than 15 days before the first day of the month to which the waiver applies.

(2) If for any month the waiver does not apply to the full retirement allowance due under this chapter, the waiver applies first to all or the necessary portion of prior service pension, then to all or to the necessary portion of current service pension, and then to the necessary portion of annuity.

(3) The waiver may be revoked at any time, but no retirement allowance or other benefit waived for the period of time in which the waiver is in effect shall be paid. The revocation shall be made in writing and filed with the board. If a person dies during the period of time in which the waiver is in effect, the waiver is considered revoked on the date of such death.

**SECTION 71.** ORS 341.551 is amended to read:

341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A **or sections 16 to 35 of this 2016 Act**, the Office of Community Colleges and Workforce Development may establish and administer an optional retirement plan for administrative employees of community college districts who are eligible for membership in the Public Employees Retirement System. Any community college district may participate in the plan by giving written notice to the office.

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

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

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

the first day of the month following six full months of employment.

(3) An administrative employee who does not elect to participate in the optional retirement plan remains or becomes a member of the Public Employees Retirement System in accordance with ORS [*chapters*] **chapter 238 [and] or 238A or sections 16 to 35 of this 2016 Act.**

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

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

(b) An administrative employee who elects to participate in the optional retirement plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall be considered to be an inactive member by the Public Employees Retirement Board and shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes a written request to the Public Employees Retirement Board for a transfer of the amounts credited to the member account of the member to the

1 optional retirement plan. A request for a transfer must be made at the time  
2 the member elects to participate in the optional retirement plan. Upon re-  
3 ceiving the request, the Public Employees Retirement Board shall transfer  
4 all amounts credited to the member account of the member directly to the  
5 optional retirement plan and shall terminate all rights, privileges and  
6 options of the employee under ORS chapter 238.

7 (c) An administrative employee who elects to participate in the optional  
8 retirement plan and who is not a vested member of the pension program of  
9 the Oregon Public Service Retirement Plan as described in ORS 238A.115 on  
10 the date that the election becomes effective shall be considered to be a ter-  
11 minated member of the pension program by the Public Employees Retirement  
12 Board as of the effective date of the election.

13 (d) An administrative employee who elects to participate in the optional  
14 retirement plan and who is a vested member of the pension program of the  
15 Oregon Public Service Retirement Plan as described in ORS 238A.115 on the  
16 date that the election becomes effective shall be considered an inactive  
17 member of the pension program by the Public Employees Retirement Board  
18 as of the effective date of the election. An employee who is subject to the  
19 provisions of this paragraph retains all the rights, privileges and options of  
20 an inactive member of the pension program. If the actuarial equivalent of the  
21 employee's benefit under the pension program at the time that the election  
22 becomes effective is \$5,000 or less, the employee may make a written request  
23 to the Public Employees Retirement Board for a transfer of the employee's  
24 interest under the pension program to the optional retirement plan. The re-  
25 quest must be made at the time the member elects to participate in the op-  
26 tional retirement plan. Upon receiving the request, the Public Employees  
27 Retirement Board shall transfer the amount determined to be the actuarial  
28 equivalent of the employee's benefit under the pension program directly to  
29 the optional retirement plan and shall terminate the membership of the em-  
30 ployee in the pension program.

31 (e) An administrative employee who elects to participate in the optional

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

19 **(f) An administrative employee who elects to participate in the op-**  
20 **tional retirement plan and who is a member of the Fair Retirement**  
21 **Plan under section 21 of this 2016 Act on the date that the election**  
22 **becomes effective shall be considered an inactive member of the Fair**  
23 **Retirement Plan by the Public Employees Retirement Board as of the**  
24 **effective date of the election. An employee who is subject to the pro-**  
25 **visions of this paragraph retains all the rights, privileges and options**  
26 **of an inactive member of the Fair Retirement Plan. An administrative**  
27 **employee who elects to participate in the optional retirement plan and**  
28 **who is a member of the Fair Retirement Plan under section 21 of this**  
29 **2016 Act may make a written request to the Public Employees Retire-**  
30 **ment Board that all amounts in the member's member account be**  
31 **transferred to the optional retirement plan. The request must be made**

1 **at the time the member elects to participate in the optional retirement**  
2 **plan. Upon receiving the request, the Public Employees Retirement**  
3 **Board shall transfer the amounts directly to the optional retirement**  
4 **plan and shall terminate the membership of the employee in the Fair**  
5 **Retirement Plan.**

6 (f) Notwithstanding paragraphs (b), (d) [*and*], (e) **and (f)** of this sub-  
7 section, the Public Employees Retirement Board shall not treat any employee  
8 as an inactive member under the provisions of this subsection for the purpose  
9 of receiving any benefit under ORS chapter 238 or 238A **or sections 16 to**  
10 **35 of this 2016 Act** that requires that the employee be separated from all  
11 service with participating public employers and with employers who are  
12 treated as part of a participating public employer's controlled group under  
13 the federal laws and rules governing the status of the Public Employees Re-  
14 tirement System and the Public Employees Retirement Fund as a qualified  
15 governmental retirement plan and trust.

16 (6) Any amounts transferred from the Public Employees Retirement Fund  
17 under subsection (5) of this section shall be transferred directly to the op-  
18 tional retirement plan by the Public Employees Retirement Board and shall  
19 not be made available to the employee.

20 (7) An employee participating in the optional retirement plan shall con-  
21 tribute monthly an amount equal to the percentage of the employee's salary  
22 that the employee would otherwise have contributed as an employee contri-  
23 bution to the Public Employees Retirement System if the employee had not  
24 elected to participate in the optional retirement plan.

25 (8) A participating community college district shall contribute monthly  
26 to the optional retirement plan the percentage of salary for each employee  
27 participating in the plan that is equal to the percentage of salary that is  
28 required to be made as the employer contribution under ORS 238A.220, less  
29 any contributions made by reason of unfunded liabilities. The district may  
30 make contributions under this subsection only during periods of time in  
31 which the employee would be eligible for membership in the Public Employ-

ees Retirement System if the employee had not elected to participate in the optional retirement plan.

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

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

(b) The employee becomes a member of the [*Public Employees Retirement System under ORS chapter 238A*] **Fair Retirement Plan under sections 16 to 35 of this 2016 Act** if the member meets all requirements for membership under [*ORS chapter 238A*] **sections 16 to 35 of this 2016 Act**; and

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

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

**SECTION 72.** ORS 352.138 is amended to read:

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

(a) A university with a governing board; and

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

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



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

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

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

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

(6) Notwithstanding ORS 352.033, except as set forth in subsection (3) of this section, ORS 243.650 to 243.782 and 276.073 to 276.090 and ORS chapters 238 and 238A **and sections 16 to 35 of this 2016 Act** apply to a university with a governing board under the same terms as they apply to the state.

(7) ORS 350.285, 350.290, 352.198, 352.226, 352.232, 352.293, 352.296, 352.303, 352.309 and 352.313 apply to a university with a governing board.

(8) Notwithstanding ORS 352.033, a university with a governing board and its agents and employees remain subject to all statutes and administrative rules of this state that create rights, benefits or protections in favor of military veterans, service members and families of service members to the same extent as an agency of this state would be subject to such statutes and ad-

ministrative rules.

(9) Notwithstanding ORS 352.033, ORS 350.540, 350.545 and 350.550 apply to a university with a governing board. A university with a governing board may not issue a tax credit certificate under ORS 350.540, 350.545 and 350.550 that will cause the public universities listed in ORS 352.002 to owe the General Fund more than \$6 million at any one time under ORS 350.540, 350.545 and 350.550.

(10) If state bonds are issued for the benefit of a university with a governing board under Article XI-Q of the Oregon Constitution:

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

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

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

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

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

(11) Nothing in this section may be construed so that statutory provisions that are not set forth in this section apply to a university with a governing board.

**SECTION 73.** ORS 352.129 is amended to read:

352.129. (1) Notwithstanding ORS 352.087 and 352.102 and section 169, chapter 768, Oregon Laws 2013, the amendments to ORS 243.107 and 351.094 [renumbered 352.237] by sections 88 and 113, chapter 768, Oregon Laws 2013, and the operative date set forth in section 171, chapter 768, Oregon Laws

2013, until July 1, 2019, each university with a governing board shall continue to participate with other public universities listed in ORS 352.002 in all shared administrative services relating to:

(a) The following employee benefits:

(A) Group insurance or deferred compensation plans authorized by ORS 352.237;

(B) The Public Employees Retirement System or another plan authorized under ORS chapter 238 or 238A **or sections 16 to 35 of this 2016 Act**;

(C) The Optional Retirement Plan authorized by ORS 243.800; and

(D) A public university tax-deferred investment plan that obtains the advantages of 26 U.S.C. 403(b) and is authorized by ORS 243.820; and

(b) Collective bargaining with any statewide bargaining unit that includes employees of two or more public universities listed in ORS 352.002.

(2) During the period a public university listed in ORS 352.002 is required to participate in shared administrative services under subsection (1) of this section, the public university must provide the same scope and overall value of each employee benefit listed in subsection (1)(a) of this section as is required by the statutes referenced in subsection (1)(a) of this section.

(3) The shared administrative services listed in subsection (1) of this section must be done under the same terms, conditions, funding model and policy frameworks as those that exist on August 14, 2013, until July 1, 2015. On and after July 1, 2015, public universities listed in ORS 352.002 may choose to participate in shared services under an alternative shared services model.

(4)(a) Two or more public universities listed in ORS 352.002 may participate in shared services not described in subsection (1) of this section, including but not limited to shared services involving legal services and information technology.

(b) If a public university listed in ORS 352.002, or a community college, negotiates a contract with one or more third party financial firms, as defined in ORS 348.015, to provide disbursement and management services of finan-

1 cial aid funds, or management of financial accounts, to enrolled students, the  
2 public university or community college shall undertake reasonable efforts to  
3 establish collaboration agreements with other public universities or commu-  
4 nity colleges to negotiate the services.

5 (5)(a) A university with a governing board shall participate in shared  
6 services providing for maintenance of federal tax benefits relating to state  
7 bonds issued for the benefit of the university prior to April 30, 2015, unless  
8 the university opts out of shared services as described in paragraph (b) of  
9 this subsection.

10 (b) A university with a governing board may opt out of the shared ser-  
11 vices described in paragraph (a) of this subsection only if the Oregon De-  
12 partment of Administrative Services has adopted rules under ORS 286A.863  
13 relating to standards, terms and conditions for maintaining federal tax ben-  
14 efits that apply to universities with governing boards that opt out of shared  
15 services described in paragraph (a) of this subsection.

16 (c) As used in this subsection, “federal tax benefits” has the meaning  
17 given that term in ORS 286A.830.

18 **SECTION 74.** ORS 350.355 is amended to read:

19 350.355. (1) Subject to ORS 352.237 and any group health and welfare in-  
20 surance benefit plan developed under ORS 352.237, a part-time faculty mem-  
21 ber at a public institution of higher education is eligible for the same health  
22 care benefits as full-time faculty members if the part-time faculty member is  
23 eligible for membership in the Public Employees Retirement System or an-  
24 other plan authorized under ORS chapter 238 or 238A **or sections 16 to 35**  
25 **of this 2016 Act** by teaching either at a single public institution of higher  
26 education or in aggregate at multiple public institutions of higher education  
27 during the prior year.

28 (2) A part-time faculty member at a public institution of higher education  
29 shall pay all insurance premiums for health care benefits unless otherwise  
30 provided for by the policy of the institution or by collective bargaining at  
31 the institution.

1     **SECTION 75.** ORS 238.750 is repealed.

2  
3                   **EMPLOYER CONTRIBUTION RATES**  
4

5     **SECTION 76.** (1) As soon as practicable after the effective date of  
6 this 2016 Act, the Public Employees Retirement Board shall:

7         (a) Determine the savings in employer contributions that are at-  
8 tributable to the provisions of this 2016 Act; and

9         (b) Recalculate the contribution rates of all employers, pursuant to  
10 ORS 238.225, to reflect the provisions of this 2016 Act.

11       (2) The board shall issue corrected contribution rate orders to em-  
12 ployers affected by recalculated rates under this section within 90 days  
13 after the effective date of this 2016 Act. The corrected rates are effec-  
14 tive July 1, 2016.

15  
16                   **EXPEDITED REVIEW BY SUPREME COURT**  
17

18     **SECTION 77.** (1) Jurisdiction is conferred on the Supreme Court to  
19 determine in the manner provided by this section whether this 2016  
20 Act breaches any contract between members of the Public Employees  
21 Retirement System and their employers or violates any constitutional  
22 provision, including but not limited to impairment of contract rights  
23 of members of the Public Employees Retirement System under Article  
24 I, section 21, of the Oregon Constitution, or Article I, section 10,  
25 clause 1, of the United States Constitution.

26       (2) A person who is adversely affected by this 2016 Act or who will  
27 be adversely affected by this 2016 Act may institute a proceeding for  
28 review by filing with the Supreme Court a petition that meets the  
29 following requirements:

30       (a) The petition must be filed within 60 days after the effective date  
31 of this 2016 Act.

1 (b) The petition must include the following:

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

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

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

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

10 (5) The Supreme Court shall allow public employers participating  
11 in the Public Employees Retirement System to intervene in any pro-  
12 ceeding under this section.

13 (6)(a) The Supreme Court shall allow members of the Legislative  
14 Assembly to intervene in any proceeding relating to this 2016 Act. Af-  
15 ter a member intervenes in a proceeding relating to this 2016 Act, the  
16 member has standing to participate in the proceeding even if the  
17 member ceases to be a member of the Legislative Assembly.

18 (b) A member of the Senate or House of Representatives who in-  
19 tervenes in a proceeding under this subsection may not use public  
20 funds to pay legal expenses incurred in intervening or participating in  
21 the proceeding.

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

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

27  
28 **ACT DOES NOT CREATE CONTRACT RIGHTS**  
29

30 **SECTION 78.** The Legislative Assembly may change the benefits  
31 payable to persons who become members of the Public Employees Re-

1    **tirement System on or after January 1, 2017, as described in section**  
2    **17 of this 2016 Act, as long as the change applies only to benefits at-**  
3    **tributable to service performed and salary earned on or after the date**  
4    **the change is made.**

5  
6                    **SEVERABILITY**  
7

8        **SECTION 79. It is the intent of the Legislative Assembly that all**  
9    **parts of this 2016 Act are independent and that if any part of this 2016**  
10 **Act is held unconstitutional, all remaining parts shall remain in force.**  
11

12                   **CAPTIONS**  
13

14       **SECTION 80. The unit and section captions used in this 2016 Act**  
15 **are provided only for the convenience of the reader and do not become**  
16 **part of the statutory law of this state or express any legislative intent**  
17 **in the enactment of this 2016 Act.**

18  
19                   **EMERGENCY CLAUSE**  
20

21       **SECTION 81. This 2016 Act being necessary for the immediate**  
22 **preservation of the public peace, health and safety, an emergency is**  
23 **declared to exist, and this 2016 Act takes effect on its passage.**  
24

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