

# B-Engrossed Senate Bill 134

Ordered by the Senate June 11  
Including Senate Amendments dated May 3 and June 11

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Joint Interim Judiciary Committee)

## SUMMARY

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

Establishes principles for management of Public Employees Retirement Fund. Specifies uses for certain reserve accounts in fund. Specifies manner in which reserves are funded.

Changes composition of Public Employees Retirement Board.

Allows certain members of Public Employees Retirement System to withdraw member account in system and matching amount contributed by employer. Terminates all rights of member upon payment of withdrawn amounts except as specified.

Allows certain participating public employers to elect to be grouped with state for purposes of computing employer contribution. Requires investment of public employer funds in Variable Annuity Account. Provides that amount of investment be equal to moneys invested on behalf of employees. Requires crediting of earnings on Public Employees Retirement Fund to public employer at same time that earnings are credited to employee's account. Allows local governments to issue bonds for purpose of paying public employer's pension liability.

Makes miscellaneous changes to laws governing Public Employees Retirement System. Provides consistent definitions. Eliminates obsolete provisions.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to public employee retirement; creating new provisions; amending ORS 237.410, 237.620,  
3 238.005, 238.015, 238.035, 238.055, 238.068, 238.072, 238.078, 238.092, 238.095, 238.105, 238.115,  
4 238.125, 238.135, 238.145, 238.156, 238.200, 238.205, 238.220, 238.225, 238.250, 238.255, 238.260,  
5 238.265, 238.270, 238.280, 238.300, 238.305, 238.310, 238.315, 238.320, 238.325, 238.340, 238.360,  
6 238.365, 238.375, 238.380, 238.385, 238.390, 238.395, 238.415, 238.420, 238.425, 238.465, 238.515,  
7 238.545, 238.565, 238.575, 238.580, 238.585, 238.640, 238.660, 238.665, 238.670, 238.675, 238.685,  
8 243.800 and 526.052 and section 10, chapter 569, Oregon Laws 1995, section 2, chapter 575,  
9 Oregon Laws 1995, and section 3, chapter 180, Oregon Laws 1997; repealing ORS 238.150,  
10 238.230 and 238.370; and declaring an emergency.

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

## MANAGEMENT OF PUBLIC EMPLOYEES RETIREMENT FUND

12  
13  
14  
15 **SECTION 1. Section 2 of this 2001 Act is added to and made a part of ORS chapter 238.**

16 **SECTION 2. The Legislative Assembly finds that the maintenance of a solid, affordable**  
17 **public employees retirement plan is essential to providing effective, efficient services to the**  
18 **citizens of Oregon by allowing the state and political subdivisions of the state to hire and**  
19 **retain employees who are committed to providing those services. It is the intent of the**

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

1 **Legislative Assembly that the Public Employees Retirement Board, in performing its duties**  
2 **as trustee of the Public Employees Retirement Fund, recognize that the continued stability**  
3 **and viability of the Public Employees Retirement System depends on the ability of public**  
4 **employers and taxpayers to pay the costs of the system. Consistent with this intent, the**  
5 **board shall administer the system to create and maintain long-term stability and viability in**  
6 **the system, and shall act to achieve full funding for the benefits provided by the system,**  
7 **giving equal consideration to the interests of the public employer and the employee to the**  
8 **extent that treatment does not violate the fiduciary duties of the board.**

9 **SECTION 3.** ORS 238.660 is amended to read:

10 238.660. (1) The Public Employees Retirement Fund is declared to be a trust fund, separate and  
11 distinct from the General Fund, for the uses and purposes set forth in this chapter and ORS 237.950  
12 to 237.980, and for no other use or purpose, except that this provision shall not be deemed to amend  
13 or impair the force or effect of any law of this state specifically authorizing the investment of  
14 moneys from the fund. Interest earned by the fund shall be credited to the fund. Except as otherwise  
15 specifically provided by law, the Public Employees Retirement Board established by ORS 238.630 is  
16 declared to be the trustee of the fund. **Consistent with the legislative intent expressed in sec-**  
17 **tion 2 of this 2001 Act, and to the extent it is consistent with the board's fiduciary duties,**  
18 **the board shall give equal consideration to the interests of participating public employers and**  
19 **the interests of members.**

20 (2) Until all liabilities to members and their beneficiaries are satisfied, assets of the fund may  
21 not be diverted or otherwise put to any use that is not for the exclusive benefit of members and  
22 their beneficiaries. This subsection does not limit return of employer contributions for health bene-  
23 fits in the manner provided by ORS 238.410, 238.415 and 238.420 upon satisfaction of all liabilities  
24 for health benefits under those sections.

25 (3) The State of Oregon and other public employers that make contributions to the fund have  
26 no proprietary interest in the fund or in the contributions made to the fund by them. The state and  
27 other public employers disclaim any right to reclaim those contributions and waive any right of  
28 reclamation they may have in the fund. This subsection does not prohibit alteration or refund of  
29 employer contributions if the alteration or refund is authorized under this chapter and is due to  
30 erroneous payment or decreased liability for employer contributions under the system.

31 (4) The board may accept gifts of money or other property from any source, given for the uses  
32 and purposes of the system. Money so received shall be paid into the fund. Money or other property  
33 so received shall be used for the purposes for which received. Unless otherwise prescribed by the  
34 source from which the money or other property is received, the money shall be considered as income  
35 of the fund and the other property shall be retained, managed and disposed of as are investments  
36 of the fund.

37 (5) All moneys paid into the fund shall be deposited with the State Treasurer, who shall be  
38 custodian of the fund and pay all warrants drawn on it in compliance with law. No such warrant  
39 shall be paid until the claim for which it is drawn is first approved by the director or designee and  
40 otherwise audited and verified as required by law. Monthly, each beneficiary's gross benefit shall  
41 be calculated; applicable deductions made for taxes, insurance and other withholdings; and the net  
42 amount paid to the beneficiary, by check or by electronic funds transfer (EFT) to the beneficiary's  
43 bank. A deduction summary shall be made, by type, and a check issued for the aggregate of each  
44 type for transmittal to the appropriate taxing jurisdiction, vendor or institution. A voucher shall be  
45 prepared and transmitted to the Oregon Department of Administrative Services for reimbursement

1 of the checking account, and the department shall draw a warrant on the State Treasurer, payable  
2 to the Public Employees Retirement System, for the amount thereof.

3 (6) Any warrant, check or order for the payment of benefits or refunds under the system out of  
4 the fund issued by the board which is canceled, declared void or otherwise made unpayable pursuant  
5 to law because it is outstanding and unpaid for a period of more than two years, may be reissued  
6 by the board without bond if the payee is located after such warrant, check or order is canceled,  
7 declared void or otherwise made unpayable pursuant to law.

8 (7) All references in this chapter to checks or warrants are subject to the provisions of ORS  
9 291.001 (1).

10 (8) The board shall provide for an annual audit of the retirement fund and for an annual report  
11 to the Legislative Assembly and to all members of, retirees of, and all employers participating in,  
12 the system. The annual report must contain financial statements prepared in accordance with gen-  
13 erally accepted accounting principles. The financial statements must include the report of any in-  
14 dependent auditor.

15  
16 **FUNDING OF RESERVES**  
17

18 **SECTION 4.** ORS 238.255 is amended to read:

19 238.255. *[(1) As used in this section, "individual account" means the individual account for each*  
20 *active and inactive member of the system in the Public Employees Retirement Fund provided for under*  
21 *ORS 238.250, but not the individual account of the employee in the Variable Annuity Account estab-*  
22 *lished by ORS 238.260.]*

23 *[(2)]* The *[individual]* **regular** account for an active or inactive member of the system shall be  
24 examined each year. If the *[individual]* **regular** account is credited with earnings for the previous  
25 year in an amount less than the earnings that would have been credited pursuant to the assumed  
26 interest rate for that year determined by the board, the amount of the difference shall be credited  
27 to the *[individual]* **regular** account and charged to a reserve account in the fund established for the  
28 purpose. A reserve account so established may not be maintained on a *[deficiency]* **deficit** basis for  
29 a period of more than five years. Earnings in excess of the assumed interest rate for years following  
30 the year for which a charge is made to the reserve account shall first be applied to reduce or  
31 eliminate the amount of a *[deficiency]* **deficit**. **The Public Employees Retirement Board shall at-**  
32 **tempt to ensure that the reserve account is funded with amounts adequate to leave a posi-**  
33 **tive balance in the account when all members who established membership in the system**  
34 **before January 1, 1996, as described in ORS 238.430, have retired.**

35 **SECTION 5.** ORS 238.670 is amended to read:

36 238.670. (1) At the close of each calendar year **in which the earnings on the Public Employ-**  
37 **ees Retirement Fund equal or exceed the assumed interest rate established by the Public**  
38 **Employees Retirement Board under ORS 238.255**, the board shall set aside, out of interest and  
39 other income received through investment of the Public Employees Retirement Fund during *[the]*  
40 **that** calendar year, *[such part of the income as the board may deem advisable, not exceeding]* **at least**  
41 **five percent but not more than** seven and one-half percent of the combined total of such income,  
42 which moneys so segregated shall remain in the fund and constitute therein a reserve account. **The**  
43 **board shall continue to credit the reserve account in the manner required by this subsection**  
44 **until the board determines that the reserve account is adequately funded for the purposes**  
45 **specified in this subsection.** Such reserve account shall be maintained and used by the board to

1 prevent any deficit of moneys available for the payment of retirement allowances, due to interest  
2 fluctuations, changes in mortality rate or, except as provided in subsection (3) or (4) of this section,  
3 other unforeseen contingency. **In addition, the reserve account may be used by the board to:**

4 **(a) Prevent any deficit in the fund by reason of the insolvency of a participating public**  
5 **employer;**

6 **(b) Pay any legal expenses or judgments that do not arise in the ordinary course of ad-**  
7 **judicating an individual member's benefits or an individual employer's liabilities; and**

8 **(c) Provide for any other contingency that the board may determine to be appropriate.**

9 (2) At the close of each calendar year, the board shall set aside, out of interest and other income  
10 received during the calendar year, after deducting the amounts provided by law and to the extent  
11 that such income is available, a sufficient amount to credit to the reserves for pension accounts and  
12 annuities varying percentage amounts adopted by the board as a result of periodic actuarial inves-  
13 tigation. If total income available for distribution exceeds those percentages of the total accumu-  
14 lated contributions of employees and employers, the reserves for pensions and annuities shall  
15 participate in such excess.

16 (3) The board may set aside, out of interest and other income received through investment of  
17 the fund, such part of the income as the board considers necessary, which moneys so segregated  
18 shall remain in the fund and constitute one or more reserve accounts. Such reserve accounts shall  
19 be maintained and used by the board to offset gains and losses of invested capital. The board, from  
20 time to time, may cause to be transferred from the reserve account provided for in subsection (1)  
21 of this section to a reserve account provided for in this subsection such amount as the board de-  
22 termines to be unnecessary for the purposes set forth in subsection (1) of this section and to be  
23 necessary for the purposes set forth in this subsection.

24 (4) The board may provide for amortizing gains and losses of invested capital in such instances  
25 as the board determines that amortization is preferable to a reserve account provided for in sub-  
26 section (3) of this section.

27 (5) At least 30 days before crediting any interest and other income received through investment  
28 of the Public Employees Retirement Fund to any reserve account in the fund, the board shall submit  
29 a preliminary proposal for crediting to the appropriate legislative review agency, as defined in ORS  
30 291.371 (1), for its review and comment.

31  
32 **MEMBERSHIP OF PUBLIC EMPLOYEES RETIREMENT BOARD**

33  
34 **SECTION 6.** ORS 238.640 is amended to read:

35 238.640. (1) Members of the Public Employees Retirement Board shall have the following quali-  
36 fications:

37 (a) Each member shall be a citizen of the United States and a resident of this state for at least  
38 two years immediately preceding appointment to the board.

39 (b) *[Three]* **Six** public members shall not *[have been employed by a public employer during the two*  
40 *years immediately preceding appointment to the board or be so employed throughout the term of ap-*  
41 *pointment and may not be retired members of the system]* **be members of the Public Employees**  
42 **Retirement System. At least three of the public members must have experience in investing**  
43 **or pension management.**

44 (c) Two members shall be employees of a participating public employer in a management posi-  
45 tion at the time of appointment and throughout the term of appointment. At the time of appointment

1 and throughout the term of appointment, one of the two members appointed under this paragraph  
2 shall be employed by a school district and one shall be employed by the state.

3 (d) At the time of appointment and throughout the term of the appointment, [*two members*] **one**  
4 **member** shall hold an elective office, by election or appointment, in the governing body of [*two*  
5 *different*] **a** participating public [*employers*] **employer**, other than **a** school [*districts*] **district** or the  
6 state.

7 (e) [*Four*] **Two** members shall be public employees, as defined in ORS 243.650, of a participating  
8 public employer and be in an appropriate bargaining unit, as defined in ORS 243.650, having an ex-  
9 clusive representative at the time of appointment and throughout the term of appointment; but  
10 membership on the board shall not itself affect the status of such a member as a public employee  
11 as defined in ORS 243.650. [*At the time of appointment and throughout the term of appointment, one*  
12 *of those four members shall be engaged in teaching or other school activity, one shall be a police officer*  
13 *or firefighter, one shall be an employee of the state in a category other than teaching or other school*  
14 *activity or police officer or firefighter, and one shall be an employee of a political subdivision of the*  
15 *state in a category other than teaching or other school activity or police officer or firefighter.*]

16 (f) In lieu of one member appointed with the qualifications specified in paragraph (c), (d) or (e)  
17 of this subsection, one member shall be a retired member of the system at the time of appointment  
18 and throughout the term of the appointment.

19 (g) The successor of a board member in any category shall have the qualifications prescribed for  
20 that category.

21 (2) Any vacancy on the board shall be filled by appointment for the unexpired term of the  
22 member replaced.

23 (3) Except as provided in subsection (4) of this section, a member of the board is entitled to  
24 compensation and expenses as provided in ORS 292.495 from the Public Employees Retirement Fund.

25 (4) Any member of the board who is an active member of the system shall be released by the  
26 participating public employer who employs the member for the purpose of conducting the official  
27 business of the board. The wages or salary of the member shall not be reduced during periods that  
28 the member is released from duty for the purpose of conducting the official business of the board.  
29 The board shall reimburse a public employer for the cost of continuing the wages or salary of the  
30 member while the member is released from duty under this subsection. A member who continues to  
31 receive wages or salary under the provisions of this subsection shall not receive compensation under  
32 ORS 292.495, but shall receive travel and other expenses provided for under ORS 292.495. The  
33 provisions of this subsection do not apply to any person who is a member of the board and who  
34 holds another office that is subject to the provisions of section 10, Article II of the Oregon Consti-  
35 tution prohibiting the holding of more than one lucrative office.

36 **SECTION 7. The amendments to ORS 238.640 by section 6 of this 2001 Act do not affect**  
37 **the term of any member serving on the Public Employees Retirement Board on the effective**  
38 **date of this 2001 Act. Upon the next vacancy in a position of a member serving on the board**  
39 **under ORS 238.640 (1)(d) (1999 Edition) after the effective date of this 2001 Act, whether the**  
40 **position becomes vacant by reason of completion of the term or for any other reason, the**  
41 **Governor shall appoint a person meeting the requirements of ORS 238.640 (1)(b) to fill the**  
42 **position. Upon the next two vacancies in positions of members serving on the board under**  
43 **ORS 238.640 (1)(e) (1999 Edition) after the effective date of this 2001 Act, whether the posi-**  
44 **tions become vacant by reason of completion of the term or for any other reason, the Gov-**  
45 **ernor shall appoint persons meeting the requirements of ORS 238.640 (1)(b) to fill the**

1 **positions.**

2  
3 **LUMP SUM WITHDRAWAL OF EMPLOYEE ACCOUNT**  
4 **AND MATCHING EMPLOYER AMOUNT**  
5

6 **SECTION 8.** ORS 238.305, as amended by section 68 of this 2001 Act, is amended to read:

7 238.305. (1) Not later than 60 days after [*the date*] the first benefit payment is [*issued*] **made** to  
8 a retired member of the system, the member may elect to convert the allowance described by ORS  
9 238.300 as payable after retirement into a service retirement annuity of equivalent actuarial value  
10 of one of the optional forms named below. The election of Option 2, 2A, 3 or 3A shall be effective  
11 immediately upon the member's retirement.

12 Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be  
13 the actuarial equivalent of accumulated contributions by the member and interest thereon credited  
14 at the time of retirement (if death occurs before the first payment is due, the member account shall  
15 be treated as though death had occurred before retirement); (b) a life pension (nonrefund) provided  
16 by the contributions of employers as provided in ORS 238.300 (2); (c) an additional nonrefund pension  
17 for prior service credit, including military service, credited to the member at the time of first be-  
18 coming a member of the system, as elsewhere provided in this chapter, which pension shall be pro-  
19 vided by the contributions of the employer; or

20 Option 2. A reduced service retirement allowance payable during the member's life, with the  
21 provision that it continue after death for the life of the beneficiary the member nominates by written  
22 designation duly acknowledged and filed with the Public Employees Retirement Board at the time  
23 of election, should the beneficiary survive the member; or

24 Option 2A. A reduced service retirement allowance payable during the member's life which,  
25 unless modified under subsection [(5)] **(6)** of this section, continues after death for the life of the  
26 beneficiary the member nominates by written designation duly acknowledged and filed with the  
27 board at the time of election, should the beneficiary survive the member; or

28 Option 3. A reduced service retirement allowance payable during the member's life, with the  
29 provision that it continue after death at one-half the rate paid to the member and be paid for the  
30 life of the beneficiary the member nominates by written designation duly acknowledged and filed  
31 with the board at the time of election, should the beneficiary survive the member; or

32 Option 3A. A reduced service retirement allowance payable during the member's life which,  
33 unless modified under subsection [(5)] **(6)** of this section, continues after death at one-half the rate  
34 paid to the member and is paid for the life of the beneficiary the member nominates by written  
35 designation duly acknowledged and filed with the board at the time of election, should the benefi-  
36 ciary survive the member; or

37 Option 4. A reduced service retirement allowance payable during the member's life, with the  
38 provisions that if the member dies before a total of 180 monthly payments is made, the remainder  
39 of the 180 monthly payments shall be paid monthly to the beneficiary the member nominates by  
40 written designation duly acknowledged and filed with the board at any time before the member's  
41 death; and that if the member designates no beneficiary to receive the monthly payments or no such  
42 beneficiary is able to receive the monthly payments, an amount equal to the actuarial value, on the  
43 date of the member's death, of the total of the monthly payments not made to the member shall be  
44 paid according to ORS 238.390 for disposal of an amount credited to the member account of a  
45 member at the time of death; and that if the beneficiary receiving monthly payments dies before the

1 total number of monthly payments to which the beneficiary is entitled is made, an amount equal to  
2 the actuarial value, on the date of the beneficiary's death, of the total of the monthly payments not  
3 made to the member and beneficiary shall be paid according to ORS 238.390 for disposal of an  
4 amount credited to the member account of a member at the time of death and as if the beneficiary  
5 had been a member.

6 (2) Not later than 60 days after the [*date the*] first benefit payment is [*issued*] **made** to a retired  
7 member of the system, the member may elect, in lieu of the allowance described by ORS 238.300 as  
8 payable after retirement, a service retirement benefit consisting of:

9 (a) A refund of accumulated contributions by the member and interest thereon credited at the  
10 time of refund; and

11 (b) A life pension (nonrefund) provided by the contributions of employers as provided in ORS  
12 237.147 (2) (1979 Replacement Part), and an additional life pension (nonrefund) for prior service  
13 credit as provided in ORS 238.300 (3). At the same time as making the election under this subsection,  
14 the member may elect to convert the pensions described by this paragraph into a service retirement  
15 annuity of equivalent actuarial value of one of the optional forms named as Option 2, 2A, 3 or 3A  
16 under subsection (1) of this section.

17 **(3) Not later than 60 days after the first benefit payment is made to a retired member**  
18 **of the system, the member may elect in lieu of the allowance described by ORS 238.300 a**  
19 **refund service retirement benefit consisting of:**

20 (a) **A refund of accumulated contributions by the member and interest thereon credited**  
21 **at the time of retirement;**

22 (b) **An amount that matches the amount of accumulated contributions by the member**  
23 **and interest thereon, provided by the contributions of employers; and**

24 (c) **Interest on the amounts described in paragraphs (a) and (b) of this subsection from**  
25 **the effective date of retirement until the amounts are paid.**

26 [(3)] **(4)(a)** If the member elects to receive the service retirement benefit described in subsection  
27 (2) **or (3)** of this section, the member shall elect at the same time to receive the refund described  
28 in subsection (2)(a) **or (3)** of this section in one lump sum payment or in more than one but not more  
29 than five installment payments. If the member elects installment payments:

30 **(A) The amount to be paid by employer contributions under subsection (3)(b) of this**  
31 **section shall be transferred to the individual account of the member in the Public Employees**  
32 **Retirement Fund as of the effective date of retirement.**

33 [(a)] **(B)** The installment payments shall be paid once each year for the number of consecutive  
34 years equal to the number of installment payments elected.

35 [(b)] **(C)** The amount of each installment payment shall be designated by the member at the time  
36 of making the election, but the last installment payment shall be the unrefunded balance remaining  
37 in the member account of the member in the [*Public Employees Retirement*] fund.

38 [(c)] **(D)** The member account of the member in the fund shall be maintained until the last in-  
39 stallment payment is paid. The board shall establish procedures for computing and crediting interest  
40 annually on the unrefunded balance of the member account.

41 [(d)] **(E)** A yearly installment payment shall be paid on the anniversary of the date of the first  
42 installment payment.

43 [(e)] **(F)** The member is considered to have elected to transfer any balance in the variable ac-  
44 count of the member to the regular account of the member.

45 [(f)] **(G)** If the member dies before payment of all installment payments, the unrefunded balance

1 in the member account of the member plus interest to date of disbursement is payable as provided  
2 in ORS 238.390 (5).

3 **(b) If a member elects to receive the refund service retirement benefit described in sub-**  
4 **section (3) of this section, and does not elect to receive those amounts in installments under**  
5 **the provisions of this subsection, all rights of the member in the system shall terminate**  
6 **upon the payment of the amounts provided for in subsection (3) of this section, except as**  
7 **provided in paragraph (c) of this subsection. If a member elects to receive the refund service**  
8 **retirement benefit described in subsection (3) of this section, and also elects to receive those**  
9 **amounts in installments under the provisions of this subsection, all rights of the member in**  
10 **the system shall terminate upon the making of the first payment, except as provided in**  
11 **paragraph (c) of this subsection.**

12 **(c) A member who elects to receive the refund service retirement benefit described in**  
13 **subsection (3) of this section, and any eligible spouse or dependent of the member, shall**  
14 **continue to be eligible for insurance under ORS 238.410, and for any premium payments the**  
15 **member may be entitled to under ORS 238.415 and 238.420.**

16 [(4)] **(5)** The designation of a beneficiary, the election of an option or any other election or  
17 designation under subsection (1), (2), [or] (3) **or (4)** of this section may be changed by the member  
18 within 60 days after the date of the first benefit payment, except that the designation of a benefi-  
19 ciary under Option 4 may be changed by the member at any time before the member's death.

20 [(5)] **(6)** If a retired member has elected to receive a service retirement allowance under Option  
21 2A or Option 3A as provided in subsection (1) of this section, and if the beneficiary under that op-  
22 tion dies after the expiration of the time within which the member could change the election of an  
23 option or if the beneficiary is the spouse of the member and the marriage relationship is terminated  
24 as provided by law after the expiration of the time within which the member could change the  
25 election of an option, the member may elect to receive, in lieu of the optional form of allowance  
26 previously elected, the allowance that the member would have received on the effective date of re-  
27 tirement under Option 1 as provided in subsection (1) of this section and adjusted by the actual  
28 amount of any cost of living or other post-retirement adjustments made to the original allowance  
29 since the effective date of retirement. Notice of election under this subsection shall be in a form  
30 approved by the board. Payment under Option 1 shall be effective for months beginning on or after  
31 the date the board receives the election.

32 [(6)] **(7)** Notwithstanding any other provision of this section, any member of the system who re-  
33 tired before October 3, 1989, and elected to receive a service retirement allowance under either  
34 Option 2 or 3 as provided in subsection (1) of this section shall be entitled to receive a service re-  
35 tirement allowance equal to that which the member would have received on the effective date of  
36 retirement under Option 1 as provided in subsection (1) of this section and adjusted by the actual  
37 amount of any cost of living or other post-retirement adjustments made to the original allowance  
38 since the effective date of retirement if:

39 (a) The member has attained 80 years of age;

40 (b) The person designated by the member as the member's beneficiary has predeceased the  
41 member; and

42 (c) The member gives written notice to the board of the death of the member's beneficiary.

43 [(7)] **(8)** Notwithstanding any other provision of this section, any member of the system who re-  
44 tired before October 3, 1989, who elected to receive a refund of accumulated employee contributions  
45 and a life pension or pensions under subsection (2) of this section, and who elected to convert the



1 life pension or pensions provided for in subsection (2) of this section into a service retirement an-  
2 nuity under Option 2 or 3 under subsection (1) of this section, shall be entitled to receive a life  
3 pension or pensions equal to that which the member would have received on the effective date of  
4 retirement under subsection (2) of this section and adjusted by the actual amount of any cost of  
5 living or other post-retirement adjustments made to the original life pension or pensions since the  
6 effective date of retirement if:

7 (a) The member has attained 80 years of age;

8 (b) The person designated by the member as the member's beneficiary has predeceased the  
9 member; and

10 (c) The member gives written notice to the board of the death of the member's beneficiary.

11 [(8)] (9) The service retirement allowance provided in subsection [(6) or (7)] (7) or (8) of this  
12 section shall be applicable to the first full month after the death of the member's beneficiary, or the  
13 first full month after the member attains 80 years of age, whichever is later.

14 [(9)] (10) The board may deny an election to convert a service retirement allowance under this  
15 section, a change of beneficiary under this section or a change in benefit options under this section  
16 if that denial is required to maintain the status of the system and the Public Employees Retirement  
17 Fund as a qualified governmental retirement plan and trust under the Internal Revenue Code and  
18 under regulations adopted pursuant to the Internal Revenue Code.

19 **SECTION 9.** Section 3, chapter 180, Oregon Laws 1997, is amended to read:

20 **Sec. 3.** (1) If on [*the effective date of this 1997 Act*] **October 4, 1997**, a retired member is eligible  
21 for the service retirement allowance provided by ORS 238.305 [(6) or (7) or (8)], *as amended by*  
22 *section 1 of this 1997 Act,*] but was not eligible under ORS 238.305 (1995 Edition):

23 (a) The member may give written notice of the member's eligibility to the Public Employees  
24 Retirement Board at any time after [*the effective date of this 1997 Act*] **October 4, 1997**; and

25 (b) The service retirement allowance of the retired member under ORS 238.305 [(6) or (7) or (8)]  
26 [*, as amended by section 1 of this 1997 Act,*] is first applicable to the first full month after the death  
27 of the member's beneficiary, or the first full month after the member attained 80 years of age,  
28 whichever is later.

29 (2) As soon as possible after [*the effective date of this 1997 Act*] **October 4, 1997**, the board shall  
30 calculate and mail a check for the amount of any retroactive payment required under subsection (1)  
31 of this section. The retroactive payment shall represent the difference between the total of all  
32 monthly amounts paid to the member before the first recalculated monthly payment is made under  
33 subsection (1) of this section, and the total of all monthly amounts that would have been paid to the  
34 member if ORS 238.305, as amended by section 1 [*of this 1997 Act*], **chapter 180, Oregon Laws 1997**,  
35 had been in effect on and after October 3, 1989. In no event shall the increased service allowance  
36 under ORS 238.305 [(6)] (7), [*as amended by section 1 of this 1997 Act,*] or the increased life pension  
37 or pensions under ORS 238.305 [(7)] (8), be applicable to any monthly payment that was made before  
38 the first full month following October 3, 1989, and no retroactive payment shall be made under this  
39 section for any monthly payment that was made before the first full month following October 3, 1989.

40 **SECTION 10.** ORS 238.078 is amended to read:

41 238.078. (1)(a) Any member of the system who is retired at any time after having reached earliest  
42 service retirement age, and who has been retired for more than six consecutive calendar months,  
43 may be reemployed by any public employer even though such retired member has been receiving  
44 retirement benefits.

45 (b) Any person reemployed as provided in this subsection shall resume making contributions to

1 the retirement fund, and the employer shall make contributions on behalf of the person as provided  
2 in ORS 238.225. Payments of retirement allowance received by such person during separation from  
3 the service shall not be repaid into the retirement fund after the person reenters public employment  
4 except as provided in paragraph (c) of this subsection; but the amount of such payment shall be  
5 deducted from such employee's reserve in the retirement fund and the remainder shall be credited  
6 pro rata to the funds from which it was derived.

7 (c) Upon reentering public employment as provided in this subsection, the former retirement of  
8 such person and any election of option for payment of retirement benefits theretofore made by the  
9 person shall be canceled; and thereafter upon retiring such person may elect any option for payment  
10 of retirement benefits authorized by this chapter, except that a person who elected to receive lump  
11 sum payment of benefits pursuant to ORS 238.305 (2) **or (3)** at the time of former retirement may  
12 not elect any other option at the time of subsequent retirement unless an amount equal to the lump  
13 sum and the interest that would have accumulated on the sum has been repaid by the employee to  
14 the fund. Upon such subsequent retirement any prior service pension due the employee shall be de-  
15 rived from the unused portion of the prior service credit reserve and shall be calculated on the basis  
16 of then attained age.

17 (2) Any member of the system who is retired at any time after having reached earliest service  
18 retirement age, and who has been retired for less than six consecutive calendar months, may be  
19 reemployed by any public employer even though such retired member has been receiving retirement  
20 benefits, only upon immediate repayment in a lump sum by the member of the amount of retirement  
21 benefits drawn. [*after which repayment*] The **member** account of the member shall be reestablished  
22 just as it was at the time of earlier retirement **after the lump sum repayment is made.**

23 (3) If a member of the system who retired before August 21, 1981, is reemployed, as provided in  
24 this section, beginning on or after August 21, 1981, the service retirement allowance received upon  
25 subsequent retirement by the member shall be:

26 (a) For service before August 21, 1981, an allowance including a current service pension com-  
27 puted on the basis of ORS 237.147 (2) (1979 Replacement Part).

28 (b) For service on or after August 21, 1981, an allowance including a current service pension  
29 computed on the basis of ORS 238.300 (2).

30 **SECTION 11.** ORS 238.115, as amended by section 38 of this 2001 Act, is amended to read:

31 238.115. (1)(a) A member of the system who, after separation from all service entitling the em-  
32 ployee to membership in the system and withdrawal of the amount credited to the member account  
33 of the member, reenters the service of an employer participating in the system and serves as an  
34 active member of the system for 10 years after that reentry, and who has not otherwise obtained  
35 restoration of creditable service forfeited by the withdrawal, shall obtain restoration of one full  
36 month of creditable service forfeited by the withdrawal for each three full months of service as an  
37 active member after that reentry if the member, within 90 days before the effective date of retire-  
38 ment of the member:

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

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

44 (b) If a member who obtains restoration of creditable service as provided in this subsection does  
45 not obtain restoration of all creditable service forfeited by the withdrawal pursuant to service after

1 reentry, the payment under paragraph (a) of this subsection shall be reduced proportionately to re-  
2 flect the percentage of creditable service restored.

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

5 (2) A member who forfeited creditable service rendered to a public employer before March 27,  
6 1953, because under ORS 237.976 (2) the employee withdrew contributions of the employee to the  
7 Public Employees Retirement System established by chapter 401, Oregon Laws 1945, and who did  
8 not obtain restoration of creditable service so forfeited as provided in chapter 857, Oregon Laws  
9 1977, shall, upon retirement, receive restoration of creditable service so forfeited, if the member,  
10 before the effective date of retirement of the member:

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

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

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

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

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

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

35 **SECTION 12. (1) The amendments to ORS 238.305, 238.078 and 238.115 and section 3,**  
36 **chapter 180, Oregon Laws 1997, by sections 8, 9, 10 and 11 of this 2001 Act become operative**  
37 **on January 1, 2003.**

38 **(2) The amendments to ORS 238.305 by section 8 of this 2001 Act apply only to members**  
39 **of the Public Employees Retirement System whose effective date of retirement is on or after**  
40 **the effective date of this 2001 Act.**

41  
42 **POOLING OF LOCAL GOVERNMENT EMPLOYERS**  
43

44 **SECTION 13.** ORS 238.225 is amended to read:

45 238.225. (1) A **participating** public employer [*that is participating in the system*] shall, at inter-

1 vals designated by the **Public Employees Retirement** Board, transmit to [*it such amounts as are*  
 2 *actuarially computed to be necessary, as determined by the board,*] **the board those amounts the**  
 3 **board determines to be actuarially necessary** to adequately [*provide*] **fund** the benefits to be  
 4 provided by the contributions of the employer under this chapter. **From time to time, the board**  
 5 **shall determine the liabilities of the system and shall set the amount of contributions to be**  
 6 **made by participating public employers, and by other public employers who are required to**  
 7 **make contributions on behalf of members, to ensure that those liabilities will be funded no**  
 8 **more than 40 years after the date on which the determination is made.** [*including such*  
 9 *amounts as are actuarially determined to be necessary to amortize within not less than 30 years after*  
 10 *December 31, 1968, all liabilities estimated by the actuary to accrue to the system on account of the*  
 11 *pensions to be provided by the contributions of the employer, except as otherwise provided in this sec-*  
 12 *tion. For the purpose of such actuarial computation only, the school districts of the state shall be re-*  
 13 *garded as constituting one employer.*]

14 [(2) *In addition each such employer shall transmit to the board, at intervals which it designates,*  
 15 *such amounts as are actuarially determined, on the basis of an amount per month equal to \$6 for each*  
 16 *year of prior service or major fraction thereof for a period not exceeding 20 years for employees who*  
 17 *last retired prior to April 8, 1953, and prior to becoming eligible for participation in the Old Age,*  
 18 *Survivors and Disability Insurance program and on the basis of an amount per month equal to \$4 for*  
 19 *each year of prior service or major fraction thereof for a period not exceeding 20 years for all other*  
 20 *employees, except as provided in subsection (4) of this section, to be necessary to amortize within not*  
 21 *less than 30 years after the employer commences participating in the system or after December 31, 1968,*  
 22 *whichever occurs last, all liabilities estimated by the actuary to accrue to the system on account of*  
 23 *service by the employer's employees prior to the time it commences participating in the system, and all*  
 24 *prior service pension included in retirement allowances shall be computed on the basis hereby estab-*  
 25 *lished; provided, however, that a political subdivision other than a school district may elect not to alter*  
 26 *the basis of \$2.50 or \$4 per month established by its agreement made when it began to participate in*  
 27 *the system established by chapter 401, Oregon Laws 1945, as amended. The 1961 amendment to this*  
 28 *subsection does not apply with respect to employees receiving prior service pension on the basis of \$6*  
 29 *per month for each year of prior service credit allowed under the amendment to this subsection by*  
 30 *section 3, chapter 623, Oregon Laws 1959.*]

31 [(3) *A political subdivision which had withdrawn prior to January 1, 1956, from the Public Em-*  
 32 *ployees Retirement System may elect to increase the benefits payable for prior service to it from \$2.50*  
 33 *to \$4 per month for each year of prior service allowed; provided, that the administrative head of the*  
 34 *withdrawn employer enters into an agreement with the Public Employees Retirement Board, binding*  
 35 *such political subdivision to (a) transmit to the board, as hereinabove provided, payments including the*  
 36 *cost of increased benefits, (b) pay for such increase of benefits for all its current employees with prior*  
 37 *service credit who have maintained membership in the Public Employees Retirement System and for*  
 38 *all its past employees who have maintained such membership and who have prior service credit for*  
 39 *service to such withdrawn public employer, and (c) pay for such increase of benefits for all annuitants*  
 40 *who on the effective date of the agreement are receiving payment for prior service to such employer, the*  
 41 *increase to be effective from and after the date of executing the agreement. An agreement so executed*  
 42 *shall be irrevocable by the political subdivision, which shall be liable thereon and subject to legal*  
 43 *action therefor by the board until all obligations of such agreement are fully discharged.*]

44 [(4) *Subject to the rules of the board and except as this chapter otherwise provides, credit shall be*  
 45 *granted.*]

1        *[(a) An employee of the state who is a member of the system for continuous service, for a period*  
2 *not exceeding 20 years, to the state prior to July 1, 1946.]*

3        *[(b) A school district employee who is a member of the system for continuous service to all school*  
4 *districts of the state as provided in subsection (6) of this section.]*

5        *[(c) An employee of a public employer other than the state or a school district who is a member*  
6 *of the system for continuous service, on the basis of the formula agreed upon as provided in this sub-*  
7 *section, to that public employer prior to the time it commences to participate in the system.]*

8  
9 *[Within 60 days after an employer becomes a participant in the system the board shall issue the member*  
10 *entitled to such credit a certificate of the aggregate of such credit to which the member is entitled. The*  
11 *certificate shall be final unless the board, for cause upon the motion of the member or board, modifies*  
12 *the certificate. The board may arrange with a political subdivision other than a school district, or with*  
13 *an agency created by two or more such political subdivisions to provide themselves governmental ser-*  
14 *vices, for determining, on the basis of a formula agreed upon by the board and the governing body of*  
15 *the subdivision or agency, the years of credit which an employee of the subdivision or agency is to re-*  
16 *ceive for service to it prior to the time that it commences to participate in the system, without limitation*  
17 *as to the number of years of such prior service, and any such employee may be given credit for accu-*  
18 *mulated seasonal employment for such subdivision or agency if the employee has become a regular*  
19 *employee thereof. The amendments to this subsection and to subsection (5) of this section by section 5,*  
20 *chapter 640, Oregon Laws 1969, shall be deemed to have been in effect since the inception of the*  
21 *system.]*

22        *[(5) When the formula referred to in subsection (4) of this section has been agreed upon and the*  
23 *years of prior service credit have been determined, a political subdivision or agency created by two or*  
24 *more political subdivisions to provide themselves governmental services which desires to increase such*  
25 *credit to its employees may apply to the retirement board for a revision of the formula within the lim-*  
26 *itations of this chapter. If the board agrees to such revision, the cost incurred in reviewing the records*  
27 *of such employer's employees and making any actuarial computation required to effect an increase of*  
28 *prior service credit shall be borne by the political subdivision or agency.]*

29        *[(6) Each school district employee who is a member of the system shall be granted full credit, for*  
30 *a period not exceeding 20 years, for continuous service to all school districts of the state prior to July*  
31 *1, 1946. Each school district shall transmit to the board, at intervals which it designates, such amounts*  
32 *as are actuarially determined, on the basis stated in subsection (2) of this section, to be necessary to*  
33 *amortize, within not less than 30 years after December 31, 1968, all liabilities estimated by the actuary*  
34 *to accrue to the system on account of service by school district employees prior to July 1, 1946.]*

35        **(2) For the purpose of the actuarial computation required under subsection (1) of this**  
36 **section:**

37        **(a) The school districts of the state shall be regarded as a single employer; and**

38        **(b) All community college districts and the state shall be regarded as a single employer.**

39        **(3) For the purpose of the actuarial computation required under subsection (1) of this**  
40 **section, any participating public employer may elect to be grouped with the state and all**  
41 **community college districts and treated as a single employer for actuarial purposes only. An**  
42 **election under this subsection may be made only by participating public employers other than**  
43 **school districts and community college districts. Any public employer that makes an election**  
44 **under this subsection may not revoke the election.**

45        **(4) The computation of the contributions of a participating public employer that makes**

1 an election under the provisions of subsection (3) of this section shall be based only on the  
2 liabilities of the employer that are incurred after the effective date of the employer's  
3 election. The board shall separately compute the contribution of the employer for the liabil-  
4 ities incurred by the employer before the effective date of the employer's election.

5 (5) A participating public employer may make an election under subsection (3) of this  
6 section only by the adoption of a resolution or ordinance by the governing body of the public  
7 employer.

8 (6) Except as provided in subsection (2) of this section, the board may not require that  
9 any participating public employer be grouped with any other participating public employer  
10 for the purpose of the actuarial computation required under subsection (1) of this section.  
11 If two participating public employers merge or otherwise consolidate, and one of the public  
12 employers has made an election under subsection (3) of this section:

13 (a) The board may not require that the public employer that is the product of the con-  
14 solidation be grouped with the state and all community college districts unless the public  
15 employer makes an election under subsection (3) of this section; and

16 (b) The board may require that the public employer that is the product of the consol-  
17 idation make contributions based on the group rate only for those members for whom con-  
18 tributions based on the group rate were made before the consolidation.

19 (7) Except as provided in this section, the board may not group participating public em-  
20 ployers for the purposes of the actuarial computation required by subsection (1) of this sec-  
21 tion.

22 SECTION 14. The amendments to ORS 238.225 by section 13 of this 2001 Act do not affect  
23 any right to receive prior service credit, or any obligation to provide prior service credit,  
24 incurred under ORS 238.225 before the effective date of this 2001 Act.

25 SECTION 15. ORS 238.230 is repealed.

26  
27 **EMPLOYER PARTICIPATION IN**  
28 **VARIABLE ANNUITY ACCOUNT INVESTMENTS**  
29

30 SECTION 16. Section 17 of this 2001 Act is added to and made a part of ORS chapter 238.

31 SECTION 17. (1) The Public Employees Retirement Board, on a regular basis, shall de-  
32 termine for each participating public employer the total amount of all member accounts in  
33 the Variable Annuity Account held by active or inactive members who are or were employed  
34 by the employer. The board shall provide the total amount for each employer so determined  
35 to the Oregon Investment Council. The Oregon Investment Council shall invest moneys  
36 equal to the amounts specified by the board in the same fund or funds in which Variable  
37 Annuity Account moneys are invested.

38 (2) The moneys invested by the Oregon Investment Council under this section shall be  
39 moneys of the Public Employees Retirement Fund that are assets attributable to employer  
40 contributions and earnings on those contributions, but that are not assets of the reserve  
41 account established under ORS 238.255 or assets of member accounts maintained under ORS  
42 238.250 or 238.260. The board shall credit or charge earnings and losses produced by invest-  
43 ments made under this section to each public employer, based on the amount determined for  
44 the employer under subsection (1) of this section, for the purpose of matching earnings  
45 credited to the Variable Annuity Account on behalf of the active and inactive members who

1 are or were employed by the employer.

2 (3) Investments authorized under this section are not subject to the limitations on in-  
3 vestment imposed by ORS 293.726 (6).

4 (4) Nothing in this section shall be construed to convey to any participating public em-  
5 ployer any proprietary interest in the Public Employees Retirement Fund or in the contri-  
6 butions made to the fund by those employers.

7 NOTE: Sections 18 and 19 were deleted by amendment. Subsequent sections were not renum-  
8 bered.

9  
10 **CREDITING OF EARNINGS TO EMPLOYERS**  
11 **UPON DEATH OR RETIREMENT OF MEMBER**

12  
13 SECTION 20. Section 21 of this 2001 Act is added to and made a part of ORS chapter 238.

14 SECTION 21. Upon the death or retirement of a member of the Public Employees Re-  
15 tirement System, the Public Employees Retirement Board shall credit earnings to the par-  
16 ticipating public employer or employers that employed the member. The board shall credit  
17 earnings to the amounts charged to each employer by reason of the death or retirement. The  
18 earnings rate used by the board shall be the same rate that the board uses for crediting  
19 member accounts at the time the charge is made.

20  
21 **BONDING OF LOCAL GOVERNMENT**  
22 **UNFUNDED PERS LIABILITIES**

23  
24 SECTION 22. Sections 23, 24, 25, 26 and 27 of this 2001 Act are added to and made a part  
25 of ORS chapter 238.

26 SECTION 23. As used in sections 23 to 27 of this 2001 Act:

27 (1) "Governmental unit" has the meaning given that term in ORS 288.150, and includes  
28 an agency created by two or more political subdivisions pursuant to ORS 190.003 to 190.130  
29 or 190.265.

30 (2) "Pension liability" means:

31 (a) Monetary obligations of a participating public employer for which the employer is or  
32 will be required to transmit amounts to the Public Employees Retirement Board under the  
33 provisions of ORS 238.225, including any obligations arising out of an integration contract  
34 under ORS 238.680, or any other liability of a governmental unit that is attributable to an  
35 obligation to pay pensions or other retirement benefits to officers or employees of the gov-  
36 ernmental unit, whether active or retired; and

37 (b) Monetary obligations of a public employer arising out of an integration contract under  
38 ORS 238.680 for which the employer is required to transmit amounts to the Public Employees  
39 Retirement Board.

40 (3) "State agency" means any officer, board, commission, department, division or insti-  
41 tution in the administrative branch of state government.

42 SECTION 24. (1) The Legislative Assembly finds that authorizing issuance of limited tax  
43 bonds or revenue bonds to finance pension liabilities may reduce the cost of public pensions  
44 to taxpayers and that the reduction of those costs to taxpayers is a matter of statewide  
45 concern.

1           **(2) Notwithstanding any limitation on indebtedness or borrowing under state or local law,**  
2 **for the purpose of obtaining funds to pay the pension liability of a governmental unit, the**  
3 **governing body of a governmental unit may authorize and cause the issuance of limited tax**  
4 **bonds as defined in ORS 288.150, revenue bonds authorized by charter or pursuant to ORS**  
5 **288.805 to 288.945, or any combination of those bonds. The governing body of a governmental**  
6 **unit may pledge the full faith and credit and taxing power of the governmental unit to the**  
7 **payment of the principal and interest on bonds issued under sections 23 to 27 of this 2001**  
8 **Act, and any premium on those bonds.**

9           **(3) Limited tax bonds authorized under this section must be issued in the manner pre-**  
10 **scribed by ORS chapters 287 and 288 for the issuance of limited tax bonds. A county may not**  
11 **issue limited tax bonds under this section for an amount that exceeds five percent of the real**  
12 **market value of the taxable property within the boundaries of the county.**

13           **(4) Revenue bonds authorized under this section need not comply with the procedure**  
14 **specified in ORS 288.815.**

15           **(5) A governmental unit that issues limited tax bonds or revenue bonds under this sec-**  
16 **tion may also issue limited tax bonds or revenue bonds for the purpose of refunding the**  
17 **bonds.**

18           **(6) A governmental unit may enter into indentures or other agreements with trustees**  
19 **or escrow agents for the issuance, administration or payment of bonds authorized under this**  
20 **section.**

21           **(7) The state may not issue bonds under the provisions of this section.**

22           **SECTION 25. (1) Governmental units may enter into intergovernmental agreements for**  
23 **the collective issuance, administration or payment of bonds authorized under section 24 of**  
24 **this 2001 Act. An agreement for collective issuance, administration or payment of bonds**  
25 **under this subsection may provide for the contribution and pooling of the assets of the gov-**  
26 **ernmental units as security for the bonds, and may make provisions for such other matters**  
27 **as the governmental units determine convenient. Notwithstanding ORS 190.080, any inter-**  
28 **governmental entity created by governmental units under this section shall have the power**  
29 **to issue bonds as described in section 24 of this 2001 Act. The bonds may be issued and sold**  
30 **as parity bonds, issued and sold individually or issued and sold in such combinations or forms**  
31 **as determined to be appropriate by the governmental units.**

32           **(2) Proceeds of bonds sold under an intergovernmental agreement entered into under this**  
33 **section, and any other funds or assets of a governmental unit, together with interest or**  
34 **earnings on the proceeds, funds and assets, may be consolidated into one or more funds or**  
35 **accounts and may be pledged to the holders of the bonds.**

36           **(3) Governmental units may enter into indentures or other agreements with trustees or**  
37 **escrow agents for the issuance, administration or payment of bonds pursuant to an inter-**  
38 **governmental agreement entered into under this section.**

39           **(4) The State Treasurer may cooperate with, assist and provide recommendations to**  
40 **governmental units, and any intergovernmental entity created by governmental units under**  
41 **this section, relating to all matters involved in the issuance, administration and payment of**  
42 **bonds. Any expenses incurred by the State Treasurer in providing assistance to govern-**  
43 **mental units under this section may be paid as an administrative expense of the govern-**  
44 **mental unit from the proceeds of the bonds issued with the assistance of the State**  
45 **Treasurer.**



1       **SECTION 26.** (1) A governmental unit, or a group of governmental units that enter into  
2 an intergovernmental agreement under section 25 of this 2001 Act, may establish a debt  
3 service trust fund for the purpose of paying the principal and interest on bonds issued under  
4 sections 23 to 27 of this 2001 Act. The trustee of the debt service trust fund shall hold the  
5 moneys paid into the trust fund solely for the purpose of paying the principal and interest  
6 on bonds issued under sections 23 to 27 of this 2001 Act and for paying the administrative  
7 costs of the trust fund.

8       (2) Moneys held in a debt service trust fund are subject to the limitations on investment  
9 imposed by ORS 294.033 and 294.035.

10       (3) A governmental unit, or a group of governmental units that enter into an intergov-  
11 ernmental agreement under section 25 of this 2001 Act, that has established a debt service  
12 trust fund under this section may not divert or pledge any moneys paid into the trust fund  
13 for any purpose other than the purpose specified in subsection (1) of this section until the  
14 total amount of principal and interest on bonds issued by the governmental unit or under the  
15 intergovernmental agreement, and any premium on those bonds, is paid.

16       **SECTION 27.** (1) A governmental unit, or a group of governmental units that enter into  
17 an intergovernmental agreement under section 25 of this 2001 Act, that receives funds from  
18 any state agency may enter into a funds diversion agreement with the state agency for the  
19 purpose of paying the principal and interest on bonds issued under sections 23 to 27 of this  
20 2001 Act, and any premium on those bonds. A diversion agreement entered into under this  
21 section must provide that:

22       (a) Moneys payable to the governmental unit or governmental units by the state agency  
23 from appropriations from the General Fund or any other source of moneys will be paid di-  
24 rectly to a debt service trust fund established under section 26 of this 2001 Act in amounts  
25 equal to the debt service owed by the governmental unit or governmental units;

26       (b) The state agency must pay the amounts required under the funds diversion agree-  
27 ment to the debt service trust fund established under section 26 of this 2001 Act pursuant  
28 to the schedule specified in the agreement before paying any other amounts to the govern-  
29 mental unit or governmental units;

30       (c) The agreement is irrevocable; and

31       (d) The agreement will remain in effect until all the bonds issued by the governmental  
32 unit or under the intergovernmental agreement are mature or redeemed.

33       (2) If for any reason a state agency that has entered into a funds diversion agreement  
34 is not able to pay moneys to a debt service trust fund as contemplated by the agreement, the  
35 state agency shall give notice to the governmental unit or governmental units within 30 days  
36 after the state agency is aware that the moneys will not be paid.

37       (3) Nothing in this section, or in any funds diversion agreement entered into by a state  
38 agency under this section, may in any manner obligate the state or any state agency:

39       (a) To pay any amount to a governmental unit that the governmental unit is not other-  
40 wise entitled to receive under law; or

41       (b) To pay any principal or interest on bonds issued under sections 23 to 27 of this 2001  
42 Act.

43  
44                                   MEMBER ACCOUNTS  
45

1        **SECTION 28.** ORS 237.410 is amended to read:

2        237.410. As used in ORS 237.420 to 237.520, unless the context requires otherwise:

3        (1) "Public agency" or "political subdivision" means the State of Oregon, any city, county, mu-  
4        nicipal or public corporation or any political subdivision of the State of Oregon or any  
5        instrumentality thereof, or any school district, or any agency created by two or more political sub-  
6        divisions [*referred to in ORS 238.005 (9)*] to provide themselves governmental services, the employees  
7        of which constitute a coverage group. For purposes of ORS 237.420 to 237.520, such agency created  
8        by two or more political subdivisions is a governmental instrumentality and a legal entity with  
9        power to enter into contracts, hold property and sue and be sued.

10       (2) "Coverage group" has the meaning given that term by the provisions of section 218 of title  
11       2 of the federal Social Security Act, and amendments thereto, and applicable federal regulations  
12       adopted pursuant thereto.

13       **SECTION 29.** ORS 238.005 is amended to read:

14       238.005. For purposes of this chapter:

15       (1) [*The term*] "Annuity" means payments for life derived from contributions made by a member  
16       as provided in this chapter.

17       **(2) "Board" means the Public Employees Retirement Board.**

18       [(2)] **(3)** [*The term*] "Calendar year" means 12 calendar months commencing on January 1 and  
19       ending on December 31 following.

20       [(3)] **(4)** [*The term*] "Continuous service" means service not interrupted for more than five years,  
21       except that such continuous service shall be computed without regard to interruptions in the case  
22       of:

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

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

30       [(4)] **(5)** [*The term*] "Creditable service" means any period of time during which an active mem-  
31       ber is being paid a salary by a participating public employer and contributions are being made to  
32       the system either by or on behalf of the member. For purposes of computing years of "creditable  
33       service," full months and major fractions of a month shall be considered to be one-twelfth of a year  
34       and shall be added to all full years. "Creditable service" includes all retirement credit received by  
35       a member.

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

38       [(5)] **(7)** [*The term*] "Employee" includes, in addition to employees, public officers, but does not  
39       include:

40       (a) Persons engaged as independent contractors.

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

43       (c) Persons, other than workers in the Oregon Industries for the Blind under ORS 346.190, pro-  
44       vided sheltered employment or made-work by a public employer in an employment or industries  
45       program maintained for the benefit of such persons.

1 (d) Persons employed and paid from federal funds received under the Emergency Job and Un-  
2 employment Assistance Act of 1974 (Public Law 93-567) or any other federal program intended pri-  
3 marily to alleviate unemployment. However, any such person shall be considered an “employee” if  
4 not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects to  
5 have the person so considered by an irrevocable written notice to the board.

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

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

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

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

23 **(9) “Firefighter” does not include a volunteer firefighter as defined in subsection (23) of**  
24 **this section, but does include:**

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

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

30 [(6)] **(10) [The term] “Fiscal year” means 12 calendar months commencing on July 1 and ending**  
31 **on June 30 following.**

32 **(11) “Fund” means the Public Employees Retirement Fund.**

33 [(7)(a)] **(12)(a) [The term] “Member” means a person who has established membership in the**  
34 **system and whose membership has not been terminated as described in ORS 238.095. “Member” in-**  
35 **cludes active, inactive and retired members.**

36 (b) “Active member” means a member who is presently employed by a participating public em-  
37 ployer in a position that meets the requirements of ORS 238.015 (4), and who has completed the  
38 six-month period of service required by ORS 238.015.

39 (c) “Inactive member” means a member who is absent from the service of all employers partic-  
40 ipating in the system, whose membership has not been terminated in the manner described by ORS  
41 238.095, and who is not retired for service or disability. “Inactive member” includes a member who  
42 would be an active member except that the person’s only employment with a participating public  
43 employer is in a position that does not meet the requirements of ORS 238.015 (4).

44 (d) “Retired member” means a member who is retired for service or disability.

45 **(13)(a) “Member account” means the regular account and the variable account.**

1       **(b) “Regular account” means the account established for each active and inactive mem-**  
2 **ber under ORS 238.250.**

3       **(c) “Variable account” means the account established for a member who participates in**  
4 **the Variable Annuity Account under ORS 238.260.**

5       **(14) “Normal retirement age” means:**

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

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

14       **[(8)] (15) [The term] “Pension” means annual payments for life derived from contributions by one**  
15 **or more public employers.**

16       **(16) “Police officer” includes:**

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

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

24       **(c) Employees of the Oregon Liquor Control Commission who are classified as enforce-**  
25 **ment officers by the administrator of the commission.**

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

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

30       **(f) Parole and probation officers employed by the Department of Corrections and parole**  
31 **and probation officers who are transferred to county employment under ORS 423.549.**

32       **(g) Police officers appointed under ORS 276.021 or 276.023.**

33       **(h) Employees of the Port of Portland who are classified as airport police by the Board**  
34 **of Commissioners of the Port of Portland.**

35       **(i) Employees of the State Department of Agriculture who are classified as livestock po-**  
36 **lice officers by the Director of Agriculture.**

37       **(j) Employees of the Department of Public Safety Standards and Training who are clas-**  
38 **sified by the department as other than secretarial or clerical personnel.**

39       **(k) Investigators of the Criminal Justice Division of the Department of Justice.**

40       **(L) Corrections officers as defined in ORS 181.610.**

41       **(m) Employees of the Oregon State Lottery Commission who are classified by the Direc-**  
42 **tor of the Oregon State Lottery as enforcement agents pursuant to ORS 461.110.**

43       **(n) The Director of the Department of Corrections.**

44       **(o) An employee who for seven consecutive years has been classified as a police officer**  
45 **as defined by this section, and who is employed or transferred by the Department of Cor-**

1 **rections to fill a position designated by the Director of the Department of Corrections as**  
2 **being eligible for police officer status.**

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

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

11 **(r) Employees at the MacLaren School, Hillcrest School of Oregon and other youth cor-**  
12 **rection facilities and juvenile detention facilities under ORS 419A.050, 419A.052 and 420.005**  
13 **to 420.915, who are required to hold valid Oregon teaching licenses and who have supervisory,**  
14 **control or teaching responsibilities over juveniles committed to the custody of the Depart-**  
15 **ment of Corrections or the Oregon Youth Authority.**

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

19 **(t) Employees of the Oregon Youth Authority who are classified as juvenile parole and**  
20 **probation officers.**

21 *[(9)]* **(17)** *[The term]* "Public employer" means the state, one of its agencies, any city, county,  
22 municipal or public corporation, any political subdivision of the state or any instrumentality thereof,  
23 or an agency created by two or more such political subdivisions to provide themselves governmental  
24 services. For purposes of this chapter, such agency created by two or more political subdivisions is  
25 a governmental instrumentality and a legal entity with power to enter into contracts, hold property  
26 and sue and be sued.

27 **(18) "Prior service credit" means credit provided under section 75 of this 2001 Act or**  
28 **under ORS 238.225 (2) to (6) (1999 Edition).**

29 *[(10)]* **(19)** *[The term]* "Retirement credit" means a period of time that is treated as creditable  
30 service for the purposes of this chapter.

31 *[(11)(a)]* **(20)(a)** *[The term]* "Salary" means the remuneration paid an employee in cash out of the  
32 funds of a public employer in return for services to the employer, plus the monetary value, as de-  
33 termined by the Public Employees Retirement Board, of whatever living quarters, board, lodging,  
34 fuel, laundry and other advantages the employer furnishes the employee in return for services.

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

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

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

40 (C) Retroactive payments made to an employee to correct a clerical error or pursuant to an  
41 award by a court or by order of or a conciliation agreement with an administration agency charged  
42 with enforcing federal or state law protecting the employee's rights to employment or wages, which  
43 shall be allocated to and deemed paid in the periods in which the work was done or in which it  
44 would have been done.

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

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

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

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

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

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

9 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement  
10 gratuitous payment;

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

14 (H) Payments for instructional services rendered to institutions of the Department of Higher  
15 Education or the Oregon Health Sciences University when such services are in excess of full-time  
16 employment subject to this chapter. A person employed under a contract for less than 12 months is  
17 subject to this subparagraph only for the months to which the contract pertains; or

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

20 **(21) "School year" means the period beginning July 1 and ending June 30 next following.**

21 **(22) "System" means the Public Employees Retirement System.**

22 [(12) **(23)** *[The term]* "Volunteer firefighter" means a firefighter whose position normally re-  
23 quires less than 600 hours of service per year.

24 [(13) *The term "school year" means the period beginning July 1 and ending June 30 next*  
25 *following.*]

26 [(14) *The term "police officer" includes:*]

27 [(a) *Employees of institutions defined in ORS 421.005 as Department of Corrections institutions,*  
28 *whose duties, as assigned by the director, include the custody of persons committed to the custody of*  
29 *or transferred to the Department of Corrections and any other employee of the Department of Cor-*  
30 *rections who was classified as a police officer on or before July 27, 1989, whether or not such classi-*  
31 *fication was authorized by law.*]

32 [(b) *Employees of the Department of State Police who are classified as police officers by the Su-*  
33 *perintendent of State Police.*]

34 [(c) *Employees of the Oregon Liquor Control Commission who are classified as enforcement officers*  
35 *by the administrator of the commission.*]

36 [(d) *Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified*  
37 *by the sheriff, are the regular duties of police officers or corrections officers.*]

38 [(e) *Police chiefs and police personnel of a city who are classified as police officers by the council*  
39 *or other governing body of the city.*]

40 [(f) *Parole and probation officers employed by the Department of Corrections and parole and pro-*  
41 *bation officers who are transferred to county employment under ORS 423.549.*]

42 [(g) *Police officers appointed under ORS 276.021 or 276.023.*]

43 [(h) *Employees of the Port of Portland who are classified as airport police by the Board of Com-*  
44 *missioners of the Port of Portland.*]

45 [(i) *Employees of the State Department of Agriculture who are classified as livestock police officers*

1 *by the Director of Agriculture.]*

2 *[(j) Employees of the Department of Public Safety Standards and Training who are classified by*  
3 *the department as other than secretarial or clerical personnel.]*

4 *[(k) Investigators of the Criminal Justice Division of the Department of Justice.]*

5 *[(L) Corrections officers as defined in ORS 181.610.]*

6 *[(m) Employees of the Oregon State Lottery Commission who are classified by the Director of the*  
7 *Oregon State Lottery as enforcement agents pursuant to ORS 461.110.]*

8 *[(n) The Director of the Department of Corrections.]*

9 *[(o) An employee who for seven consecutive years has been classified as a police officer as defined*  
10 *by this section, and who is employed or transferred by the Department of Corrections to fill a position*  
11 *designated by the director as being eligible for police officer status.]*

12 *[(p) An employee of the Department of Corrections classified as a police officer on or prior to July*  
13 *27, 1989, whether or not that classification was authorized by law, so long as the employee remains in*  
14 *the position held on July 27, 1989. The initial classification of an employee under a system implemented*  
15 *pursuant to ORS 240.190 will not affect police officer status.]*

16 *[(q) Employees of a school district who are appointed and duly sworn members of a law enforce-*  
17 *ment agency of the district as provided in ORS 332.531 or otherwise employed full-time as police offi-*  
18 *cers commissioned by the district.]*

19 *[(r) Employees at the MacLaren School, Hillcrest School of Oregon and other youth correction fa-*  
20 *ilities and juvenile detention facilities under ORS 419A.050, 419A.052 and 420.005 to 420.915, who are*  
21 *required to hold valid Oregon teaching licenses and who have supervisory, control or teaching re-*  
22 *sponsibilities over juveniles committed to the custody of the Department of Corrections or the Oregon*  
23 *Youth Authority.]*

24 *[(s) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-*  
25 *scription involves the custody, control, treatment, investigation or supervision of juveniles placed in*  
26 *such facilities.]*

27 *[(t) Employees of the Oregon Youth Authority who are classified as juvenile parole and probation*  
28 *officers.]*

29 *[(15) The term "final average salary" means whichever of the following is greater:]*

30 *[(a) The average salary per calendar year paid by one or more participating public employers to*  
31 *an employee who is an active member of the system in three of the calendar years of membership before*  
32 *the effective date of retirement of the employee, in which three years the employee was paid the highest*  
33 *salary. The three calendar years in which the employee was paid the largest total salary may include*  
34 *calendar years in which the employee was employed for less than a full calendar year. If the number*  
35 *of calendar years of active membership before the effective date of retirement of the employee is three*  
36 *or less, the final average salary for the employee is the average salary per calendar year paid by one*  
37 *or more participating public employers to the employee in all of those years, without regard to whether*  
38 *the employee was employed for the full calendar year.]*

39 *[(b) One-third of the total salary paid by a participating public employer to an employee who is an*  
40 *active member of the system in the last 36 calendar months of active membership before the effective*  
41 *date of retirement of the employee.]*

42 *[(16) The term "firefighter" does not include a volunteer firefighter as defined in subsection (12)*  
43 *of this section, but does include:]*

44 *[(a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals; and]*

45 *[(b) An employee of the State Forestry Department who is certified by the State Forester as a*

1 *professional wildland firefighter and whose primary duties include the abatement of uncontrolled fires*  
2 *as described in ORS 477.064.]*

3 [(17) "Earliest service retirement age" means the age attained by a member when the member could  
4 first make application for retirement under the provisions of ORS 238.280.]

5 [(18) The term "normal retirement age" means:]

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

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

13 **SECTION 30.** ORS 238.015 is amended to read:

14 238.015. (1) No person may become a member of the system unless that person is in the service  
15 of a public employer and has completed six months' service uninterrupted by more than 30 consec-  
16 utive working days during the six months' period. Every employee of a participating employer shall  
17 become a member of the system at the beginning of the first full pay period of the employee fol-  
18 lowing the six months' period. All public employers participating in the Public Employees Retire-  
19 ment System established by chapter 401, Oregon Laws 1945, as amended, at the time of repeal of  
20 that chapter, and all school districts of the state, shall participate in, and their employees shall be  
21 members of, the system, except as otherwise specifically provided by law.

22 (2) Any active member of the Public Employees Retirement System who, through the annexation  
23 of a political subdivision employing the member or by change of employment, becomes the employee  
24 of another political subdivision which is participating in the Public Employees Retirement System  
25 and has also a separate retirement system for its employees, shall remain an active member of the  
26 Public Employees Retirement System unless, within 60 days after the effective date of the  
27 annexation or change of employment or April 8, 1953, the member shall by written notice to the  
28 Public Employees Retirement Board and to the administrative body of the new public employer elect  
29 to relinquish membership in the Public Employees Retirement System and become a member of the  
30 separate retirement system of the employer, if eligible for membership in that retirement system, and  
31 the member shall be so carried by the new employer. Immediately upon such annexation of any  
32 political subdivision or such change of employment, the new public employer shall inform such em-  
33 ployee in writing of the right of the employee to exercise an election as in this section provided.

34 (3) A political subdivision (other than a school district) not participating in the retirement sys-  
35 tem established by chapter 401, Oregon Laws 1945, as amended, which employs one or more em-  
36 ployees, each of whose position requires 600 hours of service per year, or an agency created by two  
37 or more political subdivisions to provide themselves governmental services, which employs one or  
38 more employees, each of whose position requires 600 hours of service per year, may, through its  
39 governing body, notify the board in writing, that it elects to include its employees in the system  
40 hereby established. Such public employer may request the board to make a study and estimate of the  
41 cost of including it and its eligible employees, other than volunteer firefighters, in the system, which  
42 the board thereupon shall cause to be made and the cost of which the employer shall bear. Upon  
43 completion of the study and estimate the employer may apply for admission to the system, where-  
44 upon it shall begin to participate therein and its eligible employees other than volunteer firefighters  
45 shall become members of the system. If the employer is an agency created by two or more political



1 subdivisions to provide themselves governmental services and ceases thereafter to transmit to the  
2 board [*current service*] contributions for any of its eligible employees, the benefits based upon em-  
3 ployer [*current service*] contributions to which such employees would otherwise be entitled shall be  
4 reduced accordingly.

5 (4) Except as subsection (7) of this section provides otherwise with reference to volunteer fire-  
6 fighters, no employee whose position with one public employer or concurrent positions with two or  
7 more public employers normally require less than 600 hours of service per year may become a  
8 member of the system.

9 (5) No inmate of a state institution or an alien on a training or educational visa working for  
10 any participating employer, even though the inmate or alien received compensation from a partic-  
11 ipating employer, shall be eligible to become a member of the system. No person employed by a  
12 participating employer and defined by such employer as a student employee is eligible to become a  
13 member of the system for such student employment.

14 (6) A person holding an elective office or an appointive office with a fixed term or an office as  
15 head of a department to which the person is appointed by the Governor may become a member of  
16 the system by giving the board written notice of desire to do so within 30 days after taking the of-  
17 fice or, in the event that the officer is not eligible to become a member of the system at the time  
18 of taking the office, within 30 days after becoming so eligible. Membership so established shall not  
19 be discontinued during the appointive or elective term of the officer except upon separation of the  
20 officer from service.

21 (7) A public employer employing volunteer firefighters may apply to the board at any time for  
22 them to become members of the system. Upon receiving the application the board shall fix a wage  
23 at which, for purposes of this chapter only, they shall be considered to be employed and which shall  
24 be the basis for computing the amounts of the contributions which they pay into, and of the benefits  
25 which they and their beneficiaries receive from, the fund; and if the wage so fixed is satisfactory to  
26 the employer, shall include the firefighters in the system.

27 (8)(a) In the event that an employee enters the service of a public employer which is partic-  
28 ipating in or later begins to participate in the system and in the event that at the time of entering  
29 that service or at the time that the employer begins to participate in the system the employee has  
30 commenced to purchase and is continuing to purchase a retirement annuity, if the employer deems  
31 the annuity adequate for the purposes of this chapter, it may enter into an agreement with the  
32 employee and the board pursuant to which the employee may be exempted from contributing to the  
33 Public Employees Retirement Fund, and, if no public funds are being used to purchase the annuity  
34 or a corresponding pension, the employer, in lieu of the contributions which it otherwise would  
35 make to the fund on account of the employee, may make contributions toward the cost of purchasing  
36 the annuity. Such employee otherwise shall be subject to the provisions of this chapter, except that  
37 neither the employee nor any person claiming under the employee shall receive any payments from  
38 the retirement fund as service or disability allowance.

39 (b) An employee who enters into an agreement under paragraph (a) of this subsection may elect  
40 at any time thereafter to start to participate in the system by giving written notice of desire to  
41 participate to the board and to the employer. The employee shall receive no retirement credit for  
42 the period during which the employee was exempted from contributing to the fund under the  
43 agreement, but the employee shall be considered to have completed the six months' service required  
44 for membership in the system. When the employee starts to participate in the system the employer  
45 shall start to contribute to the fund on [*the*] account of the employee in the same manner as the

1 employer contributes on [*the*] account of other employees who are active members of the system and  
 2 the employer shall stop making contributions toward the cost of purchasing the retirement annuity.

3 (9)(a) All new appointees in the Federal Cooperative Extension Service or in any other service  
 4 in which participation in the Federal Civil Service retirement program is mandatory, who receive  
 5 a federal appointment on or after July 1, 1955, may participate in the Public Employees Retirement  
 6 System only by giving written notice of their election to so participate to the Public Employees  
 7 Retirement Board within six months after the effective date of their appointment.

8 (b) All persons employed by the Federal Cooperative Extension Service or by any other service  
 9 in which participation in the Federal Civil Service retirement program is mandatory, who are under  
 10 federal appointment as of July 1, 1955, and who are members of the state retirement system, shall  
 11 continue such membership unless, prior to February 1, 1956, they give written notice to the Public  
 12 Employees Retirement Board of their desire to cancel their membership.

13 (c) Any person who is an active member of the Public Employees Retirement System, who, on  
 14 or after July 1, 1955, is employed by the Federal Cooperative Extension Service or by any other  
 15 service in which participation in the Federal Civil Service retirement program is mandatory, and  
 16 who is given a federal appointment, shall continue such membership in the Public Employees Re-  
 17 tirement System unless, within six months after the effective date of the appointment, the person  
 18 gives written notice to the Public Employees Retirement Board of the desire to cancel membership.

19 (d) A cancellation of membership under paragraph (b) or (c) of this subsection terminates mem-  
 20 bership in the Public Employees Retirement System and cancels the right to any benefits from, or  
 21 claims against, that system. Such cancellation prevents the withdrawing member from claiming  
 22 thereafter any retirement credit for any period of employment before the cancellation. Upon receipt  
 23 of a notice of cancellation, the Public Employees Retirement Board shall refund [*to*] **the member**  
 24 **account of** the withdrawing member, regardless of **the** age[, *the account balance of the employee in*  
 25 *the retirement fund*] **of the withdrawing member.**

26 (10) Managers and other employees of foreign trade offices of the Economic and Community  
 27 Development Department who live and perform services in foreign countries under the provisions  
 28 of ORS 285A.090 (13) shall not be members of the system. However, any person who is an active  
 29 member of the system immediately before becoming a manager or employee of a foreign trade office  
 30 shall continue to be a member of the system during the period of time the person serves as a man-  
 31 ager or employee of the foreign trade office.

32 (11) An employee who is an employee of the Oregon Health Sciences University may not be an  
 33 active member of the Public Employees Retirement System if that employee is participating in an  
 34 alternative retirement program established by the university pursuant to ORS 353.250.

35 **SECTION 31.** ORS 238.035 is amended to read:

36 238.035. (1) A public employer that is not participating in the system may, by application to the  
 37 board, designate any class of employees of the public employer to become members of the system  
 38 at the time of entering the system.

39 (2) The board shall consider an application received under this section to be an application to  
 40 become a participating employer under this chapter, but only to the extent of providing membership  
 41 for the class of employees designated in the application.

42 (3) The board, upon such terms as are set forth in a contract between the board and the em-  
 43 ployer, shall allow every employee in the designated class to become members of the Public Em-  
 44 ployees Retirement System in accordance with this chapter. A contract entered into under this  
 45 section shall require the public employer to agree to eventually contract to provide membership to

1 all of the employees who do not become members of the system at the time that the employer be-  
2 comes a participating employer.

3 (4) All employees who have completed the period of service with the public employer that is  
4 required under ORS 238.015 shall become members of the system on a date specified by the board.  
5 All other employees in the designated class shall become members upon completion of the required  
6 period of service.

7 (5) The contract provided for in subsection (3) of this section may be in addition to or in lieu  
8 of a contract of integration under ORS 238.680.

9 (6) An employer entering into a contract under subsection (3) of this section may at any time  
10 thereafter enter into a contract with the board to provide membership to all or part of the employ-  
11 ees who do not become members of the system at the time that the employer becomes a participating  
12 employer. Except as may be provided for prior service [*under ORS 238.225*] **credit**, or under a con-  
13 tract of integration under ORS 238.680, employees shall receive no retirement credit for the period  
14 during which the employee was exempted from contributing to the fund under the agreement, but  
15 the employee shall be considered to have completed the six months' service required for membership  
16 in the system if the employee has served with the employer for at least six months. When the em-  
17 ployee starts to participate in the system the employer shall start to contribute to the fund on  
18 [*the*] account of the employee in the same manner as the employer contributes on [*the*] account of  
19 other employees who are members of the system.

20 **SECTION 32.** ORS 238.055 is amended to read:

21 238.055. (1) On August 1, 1991, all judges receiving retirement pay from the Judges' Retirement  
22 Fund and all surviving spouses of judges receiving a pension from the Judges' Retirement Fund shall  
23 be retired members of the Public Employees Retirement System, except that:

24 (a) The amount of retirement pay or pension payable to the judge or surviving spouse of a judge  
25 and the terms and conditions of eligibility to receive retirement pay or a pension shall be as estab-  
26 lished by ORS 1.314 to 1.380 (1989 Edition); and

27 (b) The right of any person to receive any benefit as a result of the death of a judge by reason  
28 of the provisions of ORS 1.314 to 1.380 (1989 Edition) shall solely be as provided by ORS 1.314 to  
29 1.380 (1989 Edition).

30 (2) After August 1, 1991, any judge who would have become eligible to receive retirement pay  
31 from the Judges' Retirement Fund shall, upon retirement, be a retired member of the Public Em-  
32 ployees Retirement System, except that:

33 (a) The amount of retirement pay or pension payable to the judge or the surviving spouse of the  
34 judge and the terms and conditions of eligibility to receive retirement pay or a pension shall be as  
35 established by ORS 1.314 to 1.380 (1989 Edition); and

36 (b) The right of any person to receive any benefit as a result of the death of the judge by reason  
37 of the provisions of ORS 1.314 to 1.380 (1989 Edition) shall solely be as provided by ORS 1.314 to  
38 1.380 (1989 Edition).

39 (3) On August 1, 1991, the Judges' Retirement Fund shall cease to exist as a separate fund and  
40 the assets and earnings of the Judges' Retirement Fund shall be paid into the employer reserves for  
41 judge members of the Public Employees Retirement Fund. The Public Employees Retirement Board  
42 shall continue to keep a separate [*member*] **regular** account for any person who may become eligible  
43 to receive a retirement benefit under subsection (2) of this section and for any person whose child  
44 or children may become entitled to a benefit under ORS 1.346 (1989 Edition).

45 (4) Upon deposit of the assets and earnings of the Judge's Retirement Fund as provided under

1 subsection (3) of this section, the Public Employees Retirement Board shall cause to be deposited  
 2 from the employer reserves for judge members to the retired reserves of the Public Employees Re-  
 3 tirement Fund, the amount actuarially determined to be necessary to fund the retirement pay and  
 4 pensions of those judges and surviving spouses of judges who were receiving retirement pay or a  
 5 pension from the Judges' Retirement Fund on August 1, 1991.

6 (5) The amount of retirement pay or pension payable to a judge or spouse of a retired judge who  
 7 previously received retirement pay or a pension from the Judges' Retirement Fund, or who would  
 8 have received retirement pay or a pension from the Judges' Retirement Fund, shall not be recalcu-  
 9 lated or affected in any way based on the provisions of ORS chapter 238, nor shall the eligibility  
 10 of a judge or surviving spouse of a judge to receive retirement pay or a pension be affected by ORS  
 11 chapter 238.

12 (6) The provisions of ORS 238.390, 238.395, 238.400 and 238.500 to 238.585 do not apply to a judge  
 13 or surviving spouse of a judge who received retirement pay or a pension from the Judges' Retire-  
 14 ment Fund prior to August 1, 1991, or to a judge who retires as a member of the Public Employees  
 15 Retirement System under subsection (2) of this section.

16 **SECTION 33.** ORS 238.068 is amended to read:

17 238.068. (1) Notwithstanding ORS 238.015, any person who is a member of the Legislative As-  
 18 sembly at any time on or after September 13, 1975, and before January 1, 1988, regardless of whether  
 19 the person has reached the age of 65 years, may become a member of the Public Employees Retire-  
 20 ment System by giving the Public Employees Retirement Board, before January 1, 1990, written no-  
 21 tice of desire to do so. The written notice shall take effect on the first day of the month following  
 22 the date of receipt thereof by the board or upon the person's completion of six months' service,  
 23 whichever occurs last.

24 (2) Notwithstanding any other provision of this chapter, any person who is a member of the  
 25 Legislative Assembly and a member of the system, and any person who is not a member of the  
 26 Legislative Assembly but was a member thereof before January 11, 1987, upon payment to the board  
 27 before July 1, 1991, of the total amount of the employee contributions the person would have made  
 28 to the Public Employees Retirement Fund for all periods of service as a member of the Legislative  
 29 Assembly before the date of that payment for which the person was not a member of the system, is  
 30 entitled to retirement credit for those periods served as a member of the Legislative Assembly, in-  
 31 cluding those periods after reaching the age of 65 years, that the person would have been entitled  
 32 to had the person been a member of the system for those periods. Employee contributions to be paid  
 33 by a person under this subsection may be paid at the option of the person in a lump sum or in in-  
 34 stallments. If the person is a member of the Legislative Assembly, upon request by the person in  
 35 writing to the state official authorized to disburse funds in payment of the salary of the person as  
 36 a member of the Legislative Assembly, the state official shall deduct monthly from that salary the  
 37 amount of money indicated in the request for payment of employment contributions under this sub-  
 38 section and shall pay amounts so deducted to the board.

39 (3) Notwithstanding any other provision of this chapter, any person who is a member of the  
 40 Legislative Assembly and a member of the system, and any person who is not a member of the  
 41 Legislative Assembly but was a member thereof before January 9, 1989, who previously had been  
 42 employed by an employer participating in the system, but had separated from all service with that  
 43 employer entitling the employee to membership in the system and withdrawn the amount credited  
 44 to the [*employee's*] **member** account **of the member**, may have all of the rights in the system which  
 45 were forfeited by the withdrawal restored by repaying to the board by July 1, 1991, the full amount

1 so withdrawn together with the interest that would have accumulated on the sum had the amount  
2 not been withdrawn.

3 **SECTION 34.** ORS 238.072 is amended to read:

4 238.072. An employee shall not be considered to have ceased to be a member of the system under  
5 ORS 238.095 (2) by reason of any year in which the employee is employed by the Legislative As-  
6 sembly or either house thereof, or by a committee of the Legislative Assembly or either house  
7 thereof, for periods aggregating eight months or more during the year, whether or not contributions  
8 are made to the fund by or on behalf of the employee for those periods of employment, unless the  
9 employee withdraws the amount credited to the **member** account of the [*employee in the fund*]  
10 **member**.

11 **SECTION 35.** ORS 238.092 is amended to read:

12 238.092. (1) Notwithstanding any other provision of this chapter:

13 (a) A retired member of the system who has retired as other than a member of the Legislative  
14 Assembly and who thereafter becomes a member of the Legislative Assembly and elects to become  
15 an active member of the system as a member of the Legislative Assembly may also elect, by giving  
16 the board written notice of desire to do so, to receive the pension and annuity provided by this  
17 chapter for service as other than a member of the Legislative Assembly, and be an active member  
18 of the system as a member of the Legislative Assembly for the period the member holds office as a  
19 member of the Legislative Assembly. The notice provided for in this paragraph shall be given within  
20 30 days after the retired member takes office as a member of the Legislative Assembly.

21 (b) A member of the Legislative Assembly who is a member of the system as a member of the  
22 Legislative Assembly and who becomes eligible to retire by reason of service as other than a mem-  
23 ber of the Legislative Assembly, without regard to when that service was performed, may elect, by  
24 giving the board written notice of desire to do so, to retire and receive the pension and annuity  
25 provided by this chapter for service as other than a member of the Legislative Assembly, and to  
26 continue, for the period the member holds office as a member of the Legislative Assembly, as an  
27 active member of the system as a member of the Legislative Assembly.

28 (c) Upon receipt of the notice provided for in paragraphs (a) and (b) of this subsection, the board  
29 shall determine that portion of the accumulated contributions of the member and interest thereon  
30 attributable to service as other than a member of the Legislative Assembly, which shall be used in  
31 determining the amount of the annuity the member shall receive for that service. The portion of  
32 the accumulated contributions of the member and interest thereon attributable to service as a  
33 member of the Legislative Assembly shall remain in the [*individual*] **member** account of the member  
34 and, together with subsequent contributions and interest thereon, be used in determining the amount  
35 of the additional annuity the member shall receive for that service upon ceasing to hold office as  
36 a member of the Legislative Assembly.

37 (2) Notwithstanding any other provision of this chapter, a person who has reached the age of  
38 65 years, whether or not previously employed by a public employer and whether or not a retired  
39 member of the system, may be employed by the Legislative Assembly, either house thereof or the  
40 Oregon State Police for all or any part of a regular or special session of the Legislative Assembly.  
41 A person employed under this subsection:

42 (a) Unless an active member of the system continuing in employment past the age of 65 years,  
43 shall not be permitted to make contributions to the retirement fund, nor shall the employer make  
44 contributions on behalf of the person.

45 (b) If a retired member of the system, is entitled, during the period of such employment, to any

1 pension or annuity provided by this chapter.

2 **SECTION 36.** ORS 238.095 is amended to read:

3 238.095. (1) An employee shall cease to be a member of the Public Employees Retirement System  
4 if the employee withdraws the [employee] **member** account [balance] **of the member** in the manner  
5 provided by ORS 238.265.

6 (2) Except as provided in subsection (3) of this section, an employee shall cease to be a member  
7 of the system if the employee is absent from the service of all employers participating in the system  
8 for a total of more than five consecutive years after the employee becomes a member of the system.

9 (3) A school district employee shall not cease to be a member of the system under subsection  
10 (2) of this section if:

11 (a) After completing a school year, the member is absent from the service of all employers par-  
12 ticipating in the system for the next following five school years; and

13 (b) The member either returns to school employment at the beginning of the sixth school year,  
14 or reaches earliest service retirement age before the beginning of the sixth school year.

15 (4) Interest shall not accrue on the amount in the [employee] **member** account of the former  
16 member from the date that membership is terminated under subsection (2) of this section. The Public  
17 Employees Retirement Board shall pay the amount in [an employee] **a member** account [for] **to** a  
18 former member upon the termination of the membership of the former member under subsection (2)  
19 of this section if the **former** member is separated from all service with employers who are treated  
20 as part of a participating public employer's controlled group under the federal laws and rules gov-  
21 erning the status of the system and the fund as a qualified governmental retirement plan and trust.

22 **SECTION 37.** ORS 238.105 is amended to read:

23 238.105. Whenever, within five years after the employee is separated from all service entitling  
24 the employee to membership in the system, an employee who has withdrawn the amount credited to  
25 the [employee's account] **member account of the member** reenters the service of an employer  
26 participating in the system, the employee's rights in the system [which] **that** were forfeited by the  
27 withdrawal shall be restored upon repaying to the board within one year after reentering the service  
28 of the employer, the full amount so withdrawn together with the interest that would have been ac-  
29 cumulated on the sum had the amount not been withdrawn.

30 **SECTION 38.** ORS 238.115 is amended to read:

31 238.115. (1)(a) A member of the system who, after separation from all service entitling the em-  
32 ployee to membership in the system and withdrawal of the amount credited to the **member** account  
33 of the [employee in the fund] **member**, reenters the service of an employer participating in the sys-  
34 tem and serves as an active member of the system for 10 years after that reentry, and who has not  
35 otherwise obtained restoration of creditable service forfeited by the withdrawal, shall obtain resto-  
36 ration of one full month of creditable service forfeited by the withdrawal for each three full months  
37 of service as an active member after that reentry if the member, within 90 days before the effective  
38 date of retirement of the [employee] **member**:

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

40 (B) Pays to the board in a lump sum for credit to the **member** account of the [employee in the  
41 fund] **member** the amount withdrawn and interest on the amount withdrawn compounded annually  
42 for each year or portion of a year after the date of the withdrawal and before the effective date of  
43 retirement of the [employee] **member**. The interest shall be computed at the annual rate of 7.5  
44 percent.

45 (b) If [an employee] **a member** who obtains restoration of creditable service as provided in this

1 subsection does not obtain restoration of all creditable service forfeited by the withdrawal pursuant  
 2 to service after reentry, the payment under paragraph (a) of this subsection shall be reduced pro-  
 3 portionately to reflect the percentage of creditable service restored.

4 (c) *[An employee]* **A member** who obtains restoration of creditable service as provided in this  
 5 subsection is not entitled to elect to receive the service retirement benefit described in ORS 238.305  
 6 (2).

7 (2) *[An employee who is]* A member *[of the system,]* who forfeited creditable service rendered to  
 8 a public employer before March 27, 1953, because under ORS 237.976 (2) the employee withdrew  
 9 contributions of the employee to the Public Employees Retirement System established by chapter  
 10 401, Oregon Laws 1945, and who did not obtain restoration of creditable service so forfeited as  
 11 provided in chapter 857, Oregon Laws 1977, shall, upon retirement, receive restoration of creditable  
 12 service so forfeited, if the *[employee]* **member**, before the effective date of retirement of the *[em-*  
 13 *ployee]* **member**:

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

15 (b) Pays to the board in a lump sum for credit to the **member** account of the *[employee in the*  
 16 *fund]* **member** an amount determined by the board to be equal to the full amount of contributions  
 17 so withdrawn and the interest that would have accumulated to the **regular** account of the *[employee*  
 18 *in the fund]* **member** had those contributions not been withdrawn.

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

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

30 (B) Pays to the board in a lump sum for credit to the **member** account of the member *[in the*  
 31 *Public Employees Retirement Fund]* the amount withdrawn and interest on the amount withdrawn  
 32 compounded annually for each year or portion of a year after the date of the withdrawal and before  
 33 the effective date of retirement or effective date of application of the member. The interest shall be  
 34 computed at the rate actually credited to *[member]* **regular** accounts for that period.

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

38 **SECTION 39.** ORS 238.125 is amended to read:

39 238.125. A member of the system who has a combined total of 10 years or more of creditable  
 40 service in the system and prior service credit *[under ORS 238.225]* at the time of retirement, and  
 41 who was required to complete one or more periods of six months or less in the service of an em-  
 42 ployer participating in the system before becoming a member of the system, shall receive retirement  
 43 credit for those periods of six months or less if the member, within 90 days before the effective date  
 44 of retirement of the member, applies in writing to the board for that retirement credit and pays to  
 45 the board in a lump sum an amount determined by the board to be equal to:

1 (1) The total amount of employee contributions to the fund by or on behalf of the employee that  
2 would have been required for the six months' period if the employee had been a member of the  
3 system during that period, which amount shall be credited to the **regular** account of the [*employee*  
4 *in the fund*] **member**; and

5 (2) The total amount of employer contributions to the fund the employer of the employee would  
6 have been required to make in respect to the employee if the employee had been a member of the  
7 system during the six months' period, which amount shall be credited to the reserve for pension  
8 accounts in the fund.

9 **SECTION 40.** ORS 238.135 is amended to read:

10 238.135. (1) A member of the system who has 10 years or more of creditable service in the sys-  
11 tem at the time of retirement, and who served for less than six months working full-time in a sea-  
12 sonal position with a public employer participating in the system before becoming a member of the  
13 system, shall receive retirement credit for those periods of less than six months if the member,  
14 within 90 days before the effective date of retirement of the member, applies in writing to the board  
15 for that retirement credit and pays to the board in a lump sum an amount determined by the board  
16 to be equal to:

17 (a) The total amount of employee contributions to the fund by or on behalf of the employee that  
18 would have been required for the six months' period if the employee had been a member of the  
19 system during that period, plus interest at the rate of eight percent per annum from the date the  
20 contributions would have been made, which amount shall be credited to the **regular** account of the  
21 [*employee in the fund*] **member**; and

22 (b) The total amount of employer contributions to the fund the employer of the employee would  
23 have been required to make in respect to the employee if the employee had been a member of the  
24 system during the six months' period, plus interest at the rate of eight percent per annum from the  
25 date the contributions would have been made, which amount shall be credited to the reserve for  
26 pension accounts in the fund.

27 (2) As used in this section, "seasonal position" means an apprenticeship, internship or entry  
28 level role in the employ of a participating public employer that is served by a person before being  
29 employed in a technical or professional position with that public employer.

30 (3) No retirement credit shall be allowed under this section for any period of employment for  
31 which retirement credit is acquired under ORS 238.125.

32 **SECTION 41.** ORS 238.145 is amended to read:

33 238.145. (1) A member of the system employed as a police officer or firefighter shall be entitled  
34 to receive retirement credit as provided in subsection (3) of this section if:

35 (a) The member was employed by a public employer as a police officer or firefighter prior to  
36 becoming a member of the system;

37 (b) The public employer that had previously employed the member was not a participant in the  
38 system at the time the member was in the service of that public employer; and

39 (c) The public employer that had previously employed the member was located in this state.

40 (2) In addition to the requirements of subsection (1) of this section, if the member first becomes  
41 a member of the system on or after January 1, 2000, as described in subsection (5) of this section,  
42 the member must have been a member of the system for at least 60 calendar months at the time the  
43 purchase is made.

44 (3) Except as provided in subsection (4) of this section, a member of the system employed as a  
45 police officer or firefighter who meets the requirements of this section shall be entitled to receive



1 retirement credit for the period of employment with a previous public employer as described in  
2 subsection (1) of this section up to a maximum of 10 years' retirement credit if the member:

3 (a) Applies in writing to the Public Employees Retirement Board for such retirement credit; and

4 (b) Pays to the board, in a lump sum, an amount representing the contributions the member and  
5 the member's employer would have made for the years for which the member seeks retirement credit  
6 calculated as though the member had received a salary for each of those years equal to the salary  
7 received by the member in the first full calendar year of employment as a police officer or firefighter  
8 within the system. In addition, the member shall pay the interest that would have accrued had the  
9 contributions been paid in the years for which the member seeks retirement credit, compounded  
10 annually. The interest shall be computed at the annual rate of eight percent. Payment of the lump  
11 sum shall be made on or before the effective date of retirement for the member. The amounts rep-  
12 resenting the contributions the member would have made and the interest on those amounts shall  
13 be credited to the **regular** account of the [*employee in the fund*] **member**. The amounts representing  
14 the contributions the employer would have made and the interest on those amounts shall be credits  
15 to the account of the member's current participating employer.

16 (4) If a person first becomes a member of the system on or after January 1, 2000, as described  
17 in subsection (5) of this section, the person may not acquire more than five years of credit under  
18 this section in combination with any credit acquired under ORS 526.052 for periods of service with  
19 another employer that entitle the employee to retirement credit under a retirement plan offered by  
20 the other employer. If a person subject to limitation imposed by this subsection also is eligible for  
21 credit under ORS 526.052, the total years of credit that may be acquired under this subsection and  
22 ORS 526.052 may not exceed five years.

23 (5) A person becomes a member of the system before January 1, 2000, for the purposes of this  
24 section if:

25 (a) The person is a member of the system on January 1, 2000; or

26 (b) The person was a member of the system before January 1, 2000, ceased to be a member of  
27 the system under the provisions of ORS 238.095, 238.265 or 238.545 before January 1, 2000, but re-  
28 stores part or all of the forfeited creditable service from before January 1, 2000, under the pro-  
29 visions of ORS 238.105 or 238.115 after January 1, 2000.

30 **SECTION 42.** ORS 238.156 is amended to read:

31 238.156. (1) Notwithstanding any other provision of this chapter, but subject to subsection (4)  
32 of this section, an employee who leaves a position that meets the requirements of ORS 238.015 (4)  
33 for the purpose of performing service in the uniformed services is entitled to receive contributions,  
34 benefits and service credit for the period under rules adopted by the Public Employees Retirement  
35 Board pursuant to subsection (2) of this section.

36 (2) The board shall adopt rules establishing contributions, benefits and service credit for any  
37 period of service in the uniformed services by an employee described in subsection (1) of this sec-  
38 tion. For the purpose of adopting rules under this subsection, the board shall consider and take into  
39 account all federal law relating to contributions, benefits and service credit for any period of service  
40 in the uniformed services. Contributions, benefits and service credit under rules adopted by the  
41 board pursuant to this subsection may not exceed contributions, benefits and service credit required  
42 under federal law for periods of service in the uniformed services.

43 (3) Subject to subsection (4) of this section, an employee who leaves a position that meets the  
44 requirements of ORS 238.015 (4) for the purpose of entering or reentering active service in the  
45 Armed Forces shall acquire retirement credit for the period during which the employee served in

1 the Armed Forces if:

2 (a) The employee returns to the service of the employer who employed the employee immediately  
3 before commencing service in the Armed Forces in a position that meets the requirements of ORS  
4 238.015 (4);

5 (b) The employee returns to that employment within one year after being otherwise than  
6 dishonorably discharged from the Armed Forces and within five years after the date that the em-  
7 ployee entered or reentered active service in the Armed Forces; and

8 (c) After returning to employment and before retirement, the employee pays to the Public Em-  
9 ployees Retirement Board in a lump sum the total amount of contributions the employee would have  
10 made throughout the period of military service in the Armed Forces based on the employee's salary  
11 rate at the time the employee entered or reentered the Armed Forces, as though the employee had  
12 remained in the employment of the employer. Any lump sum contribution made under this paragraph  
13 shall be added to the employee's **regular** account [*in the retirement fund*] and in all respects shall  
14 be considered as though made by payroll deduction.

15 (4) An employee may not receive benefits under both subsections (1) and (3) of this section for  
16 the same period of service in the Armed Forces or uniformed services. If an employee is entitled to  
17 benefits under both subsections (1) and (3) of this section by the terms of those provisions, the em-  
18 ployee shall receive benefits under the subsection that provides the greater benefit.

19 (5) For the purposes of this section, "Armed Forces" means the Army, Navy, Air Force, Marine  
20 Corps and Coast Guard.

21 **SECTION 43.** ORS 238.200 is amended to read:

22 238.200. (1)(a) [*Each employee who is*] An active member of the system shall contribute to the  
23 fund and there shall be withheld from salary of the [*employee*] **member** six percent of that salary.

24 (b) Notwithstanding paragraph (a) of this subsection, an employee who is an active member of  
25 the system on August 21, 1981, shall contribute to the fund and there shall be withheld from salary  
26 of the [*employee, so*] **member, as** long as the employee continues to be [*a*] **an active** member of the  
27 system, four percent of that salary if the salary for a month is less than \$500, or five percent of that  
28 salary if the salary for a month is \$500 or more and less than \$1,000. Notwithstanding subsection  
29 (2) of this section, for the purpose of computing the percentage of salary to be withheld under this  
30 paragraph from **a member who is** an employee of a school district or of the State Board of Higher  
31 Education whose salary is based on an annual agreement, the agreed annual salary of the  
32 [*employee*] **member** shall be divided into 12 equal installments, and each installment shall be con-  
33 sidered as earned and paid in separate, consecutive months, commencing with the first month that  
34 payment is actually made under the terms of the salary agreement.

35 (2) The contributions of each [*employee*] **member** as provided in subsection (1) of this section  
36 shall be deducted by the employer from each payroll and transmitted by the employer to the board,  
37 which shall cause them to be credited to the **member** account of the [*employee in the fund*]  
38 **member**. Salary shall be considered earned in the month in which it is paid. The date inscribed on  
39 the paycheck or warrant shall be considered as the pay date, regardless of when the salary is ac-  
40 tually delivered to the [*employee*] **member**.

41 (3) An active member who is concurrently employed by more than one participating public em-  
42 ployer, and who is a member of or entitled to membership in the system, shall make contributions  
43 to the fund on the basis of salary paid by each employer.

44 **SECTION 44.** ORS 238.205 is amended to read:

45 238.205. Notwithstanding any other provision of this chapter, and subject to the provisions of

1 this section, a public employer participating in the system may agree, by a written employment  
2 policy or agreement in effect on or after July 1, 1979, to “pick-up,” assume or pay the full amount  
3 of contributions to the fund required of all or less than all active members of the system employed  
4 by the employer. If a public employer so agrees:

5 (1) The rate of contribution of each active member of the system employed by the employer who  
6 is covered by such policy or agreement shall uniformly be six percent of salary regardless of the  
7 amount of monthly salary.

8 (2) The full amount of required employee contributions assumed or paid by the employer on be-  
9 half of its employees shall be considered “salary,” [*within the meaning of*] **as defined in** ORS 238.005  
10 [(11)], only for the purpose of computing a member’s “final average salary,” [*within the meaning of*]  
11 **as defined in** ORS 238.005 [(15)], and shall not constitute additional “salary” or “other  
12 advantages,” [*within the meaning of*] **as defined in** ORS 238.005 [(11)], for any other purpose.

13 (3) The full amount of required employee contributions “picked-up” by the employer on behalf  
14 of its employees shall be considered “salary,” [*within the meaning of*] **as defined in** ORS 238.005  
15 [(11)], for the purpose of calculating the amount of the contribution, for the purpose of computing  
16 a member’s “final average salary,” [*within the meaning of*] **as defined in** ORS 238.005 [(15)], and for  
17 all other purposes.

18 (4) The full amount of required employee contributions “picked-up,” assumed or paid by the  
19 employer on behalf of its employees shall be added to the [*individual account balances*] **member**  
20 **accounts** of the [*employees*] **members** for their annuities and shall be considered employee contri-  
21 butions for all other purposes of this chapter.

22 (5) For the purposes of this section:

23 (a) Employee contributions are “picked-up” if the written employment policy or agreement de-  
24 scribed in subsection (1) of this section provides that employee compensation will be reduced to  
25 generate the funds needed to make the employee contributions; and

26 (b) Employee contributions are “assumed or paid” by an employer if the written employment  
27 policy or agreement described in subsection (1) of this section provides that additional amounts shall  
28 be paid by the employer for the purpose of making the employee contributions, and employee com-  
29 pensation will not be reduced for the purpose of generating the funds needed to make the employee  
30 contributions.

31 (6) A participating public employer must give written notice to the Public Employees Retirement  
32 Board at the time that a written employment policy or agreement described in subsection (1) of this  
33 section is adopted or changed. The notice must indicate whether the employer will “pick-up” or  
34 “assume or pay” the employee contributions as described in subsection (5) of this section. Any  
35 change in the manner in which employee contributions are to be paid applies only to employee  
36 contributions made on and after the date the notice is received by the board.

37 **SECTION 45.** ORS 238.220 is amended to read:

38 238.220. (1) The Public Employees Retirement Board may, at its discretion, accept rollover con-  
39 tributions from an active member. The board may accept rollover contributions under this section  
40 only if the amounts contributed qualify for pretax rollover treatment under the federal income tax  
41 laws governing qualified retirement plans.

42 (2) If the board accepts a rollover contribution under this section, the contribution shall be paid  
43 into the Public Employees Retirement Fund and credited to an individual rollover account in the  
44 name of the member who made the contribution. The rollover account must be kept separate from  
45 the [*individual*] **member** account [*maintained for the employee under ORS 238.250 and any account*]

1 *maintained for the employee in the Variable Annuity Account under ORS 238.260,]* **of the member**  
2 and must be invested separately from all other moneys in the Public Employees Retirement Fund.  
3 All earnings on the rollover account shall be credited by the board to the rollover account. If the  
4 membership of the employee in the Public Employees Retirement System is terminated under the  
5 provisions of ORS 238.095, the board shall cease investment of the amounts in the rollover account  
6 and, after the effective date of the termination, shall no longer credit earnings and losses to the  
7 rollover account.

8 (3) Except as provided in subsection (2) of this section, amounts in a rollover account estab-  
9 lished under this section shall be invested in the same manner as funds in [*the individual account*  
10 *maintained for an employee under ORS 238.250]* **regular accounts**. However, ORS 238.255 does not  
11 apply to rollover accounts.

12 (4) Rollover contributions shall not be considered in determining whether a member has con-  
13 tributed in each of five calendar years for purposes of ORS 238.265 and 238.425 or for the purpose  
14 of any other provision in this chapter relating to employee contributions.

15 (5) Amounts held in a rollover account under this section shall be distributed to the member  
16 within 90 days after the member's effective date of retirement under this chapter, or within 90 days  
17 after termination of the person's membership in the system under ORS 238.095.

18 (6) Distribution from a member's rollover account shall be made in a single lump sum payment.  
19 Distribution from a member's rollover account shall not affect the calculation of any other service  
20 or disability retirement allowance, death benefit or other benefit payable to a member under this  
21 chapter.

22 (7) The board shall adopt rules and establish procedures for determining whether a member will  
23 be allowed to make a rollover contribution under this section. Rules and procedures adopted by the  
24 board must ensure that the rollover contributions do not adversely affect the status of the system  
25 and the Public Employees Retirement Fund as a qualified governmental plan and trust under federal  
26 income tax law.

27 (8) The board shall by rule establish a maintenance fee for rollover accounts established under  
28 this section. The fee may be collected out of earnings on rollover accounts or, if there are no  
29 earnings, from the principal amounts paid into the **rollover** accounts. The fee shall be in an amount  
30 determined by the board to be adequate to pay the full cost to the system of maintaining rollover  
31 accounts under this section.

32 **SECTION 46.** ORS 238.250 is amended to read:

33 238.250. The board shall provide for [*an individual*] **a regular** account for each active and in-  
34 active member of the system. The **regular** account shall show the amount of the member's contri-  
35 butions to the fund and the interest which they have earned. The board shall furnish a written  
36 statement thereof upon request by any member or beneficiary of the system.

37 **SECTION 47.** ORS 238.260 is amended to read:

38 238.260. (1) The purpose of this section is to establish a well balanced, broadly diversified in-  
39 vestment program for certain contributions and portions of [*account balances of employees who are*  
40 *members of the system*] **the member accounts** so as to provide retirement benefits for [*those em-*  
41 *ployees*] **members of the system** that will fluctuate as the value and earnings of the investments  
42 vary in relation to changes in the general economy. It is anticipated that investment of those con-  
43 tributions and portions of [*account balances*] **the member accounts** in equities will result in the  
44 accumulation of larger deposit reserves for those [*employees*] **members** during their working years,  
45 tend to preserve the purchasing power of those reserves and the retirement benefits provided

1 thereby and afford better protection in periods of economic inflation.

2 (2) There is established in the Public Employees Retirement Fund an account, separate and  
3 distinct from the General Fund, to be known as the Variable Annuity Account. Interest earned by  
4 the account shall be credited to the account.

5 (3) [An employee] **A member** may elect at any time to have 25, 50 or 75 percent of contributions  
6 by the [employee] **member** to the fund on and after the effective date of the election paid into the  
7 Variable Annuity Account, credited to [the] **a variable** account [of the employee therein], and re-  
8 served for the purchase of a variable annuity. [An employee] **A member** who has elected to have a  
9 percentage of contributions so paid, credited and reserved may elect at any time thereafter to have  
10 an additional 25 or 50 percent of contributions by the [employee] **member**, but not to exceed a  
11 maximum of 75 percent, so paid, credited and reserved. An election shall be in writing on a form  
12 furnished by the board and be filed with the board. An election shall be effective on January 1 fol-  
13 lowing the filing thereof.

14 (4) [An employee] **A member** who has elected to have contributions paid into the Variable An-  
15 nuity Account under subsection (3) of this section may thereafter cause the contributions to cease  
16 being paid into the **member's variable** account by filing a request in writing on a form furnished  
17 by the board and filed with the board. The contributions shall cease being paid into the **member's**  
18 **variable** account after December 31 following the filing of the request. Contributions paid into the  
19 **member's variable** account before the effective date of the request for cessation shall remain in  
20 the **member's variable** account.

21 (5)(a) An employee who is a member of the system on January 1, 1968, and who thereafter files  
22 an election under subsection (3) of this section, may elect at any time to have an amount equal to  
23 10 percent per year, for not more than five years, of the balance of the **regular** account of the  
24 [employee] **member** in the fund on the effective date of an election filed under subsection (3) of this  
25 section, transferred from the **regular** account **of the member** [in the fund] to the Variable Annuity  
26 Account, credited to the **member's variable** account [of the employee therein], and reserved for the  
27 purchase of a variable annuity. An election shall be in writing on a form furnished by the board and  
28 be filed with the board. An election is final and irrevocable upon the filing thereof. The first transfer  
29 pursuant to an election shall be made on July 1 following the filing of the election, but may be made,  
30 in the discretion of the board, on an earlier date.

31 (b) If the transfers elected by [an employee] **a member** under this subsection have not been  
32 completed at the time of retirement, a transfer equal to one annual transfer shall be made pursuant  
33 to an election by the [employee] **member** made and filed as provided in this subsection.

34 (c) No transfer shall be made under this subsection after the first payment [on account] of the  
35 service retirement allowance of the member becomes normally due.

36 (6) Moneys in the Variable Annuity Account may be invested in investments authorized by law  
37 for investment of moneys in the Public Employees Retirement Fund; but, notwithstanding any other  
38 general or specific law, moneys in the account shall be invested primarily in equities, including  
39 common stock, securities convertible into common stock, real property and other recognized forms  
40 of equities, whether or not subject to indebtedness. Not more than five percent of the amortized  
41 value of all the investments of the **Variable Annuity** Account and of moneys in the account imme-  
42 diately available for investment may be invested in the obligations of or equities in a single, primary  
43 obligor or issuer. A pro rata share of the administrative expenses of the system shall be paid from  
44 interest earned by the Variable Annuity Account.

45 (7)(a) Except as provided in subsection (8) of this section, the policy-making investment authority

1 for the Public Employees Retirement Fund shall enter into contracts with one or more persons  
 2 whom the authority determines to be qualified, whereby the persons undertake to invest and rein-  
 3 vest moneys in the Variable Annuity Account available for investment and acquire, retain, manage  
 4 and dispose of investments of the account in accordance with subsections (1) and (6) of this section  
 5 and to the extent provided in the contracts.

6 (b) Performance of functions under contracts so entered into shall be paid for out of the gross  
 7 interest or other income of the investments with respect to which the functions are performed, and  
 8 the net interest or other income of the investments after that payment shall be considered income  
 9 of the Variable Annuity Account.

10 (c) The policy-making investment authority may require a person contracted with to give to the  
 11 state a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by  
 12 the authority, with corporate surety authorized to do business in this state.

13 (d) Contracts so entered into and functions performed thereunder are not subject to the State  
 14 Personnel Relations Law or ORS 279.545 to 279.746.

15 (e) A person contracted with shall report to the policy-making investment authority as often as  
 16 the authority may require, but at least annually, the earnings of the moneys invested during the  
 17 period covered by the report, the capital gains and losses of the **Variable Annuity** Account during  
 18 the period, the changes in the market value of the investments of the account during the period and  
 19 such other information as the authority may require.

20 (8) The policy-making investment authority for the Public Employees Retirement Fund, for and  
 21 on behalf of the Public Employees Retirement System and Public Employees Retirement Board, may  
 22 enter into group annuity contracts with one or more insurance companies authorized to do business  
 23 in this state. In lieu of any investment of moneys in the Variable Annuity Account as provided in  
 24 subsections (6) and (7) of this section, the authority may pay, from time to time under contracts so  
 25 entered into, any moneys in that account available for investment purposes. Contracts so entered  
 26 into:

27 (a) May provide that annuities purchased thereunder be payable in variable dollar amounts, but  
 28 if that provision is made, provision also shall be made that [*a person who is*] a member of the system  
 29 [*and*] who has [*an*] **a variable** account [*in the Variable Annuity Account*], upon retiring from service  
 30 and before the first payment of retirement allowance becomes normally due, may elect an option to  
 31 have the annuities payable to the member or the beneficiary of the member in fixed or variable  
 32 dollar amounts or both.

33 (b) May provide that payment of annuities purchased thereunder may be made by the insurance  
 34 company directly to persons entitled thereto or to the Variable Annuity Account for payment  
 35 therefrom to those persons.

36 (c) Are not subject to ORS 279.545 to 279.746.

37 (9) Upon retiring from service but within 60 days after the date of the first benefit payment, [*a*  
 38 *person who is*] a member of the system [*and*] who has [*an*] **a variable** account [*in the Variable An-*  
 39 *nuity Account*] may elect to transfer the balance in [*that*] **the variable** account to the **regular** ac-  
 40 count of the member [*in the Public Employees Retirement Fund*], and by that transfer the annuity  
 41 shall be based on the [*account balance in the Public Employees Retirement Fund*] **amount in the**  
 42 **regular account of the member** as otherwise provided in this chapter and the member shall not  
 43 receive a variable annuity as provided in this section.

44 (10) When an annuity is payable under this chapter to [*a person who is*] a member of the system  
 45 [*and*] who has [*an*] **a variable** account, [*in the Variable Annuity Account*] or **is payable** to a bene-

1 ficiary of that person, the portion of the annuity payable from the Variable Annuity Account shall  
 2 be proportionately increased or decreased for a calendar year when, as of October 31 of the pre-  
 3 ceding calendar year, the balance of the **member's variable** account [*of that person in the Variable*  
 4 *Annuity Account*] exceeds or is less than the current value of the annuity, determined in accordance  
 5 with the rate of interest and approved actuarial tables then in effect.

6 (11) Notwithstanding subsection (10) of this section, the board, in the event of extraordinary  
 7 fluctuation in the market value of investments of the Variable Annuity Account and in order to  
 8 avoid substantial inequities, may increase or decrease the portions of annuities paid from the ac-  
 9 count for periods less than a calendar year and determined as of dates other than October 31.

10 (12) Notwithstanding any other provision of this chapter, the retirement allowance to which [*a*  
 11 *person who is*] a member of the system [*and*] who has [*an*] **a variable** account [*in the Variable An-*  
 12 *nuity Account*] or who made contributions on salary in excess of \$4,800 per year during the period  
 13 January 1, 1956, through December 31, 1967, and whose effective date of retirement is January 1,  
 14 1982, or later, is otherwise entitled under this chapter shall be subject to the following adjustment:

15 (a) The board shall determine the difference between the [*total*] **member** account of the member  
 16 [*in the system*] and what the [*total*] **member** account of the member would have been had the mem-  
 17 ber not participated in the variable annuity program on or after January 1, 1982, plus the contri-  
 18 butions made on salary in excess of \$4,800 per year during the period January 1, 1956, through  
 19 December 31, 1967.

20 (b) If the [*total*] **member** account of the member due to participation in the variable annuity  
 21 program or due to the contributions made on salary in excess of \$4,800 per year is greater, the  
 22 monthly retirement allowance of the member shall be increased by the value of the difference, using  
 23 the annuity tables applicable to the plan selected by the member.

24 (c) If the [*total*] **member** account of the member due to participation in the variable annuity  
 25 program or due to the contributions made on salary in excess of \$4,800 per year is lesser, the  
 26 monthly retirement allowance of the member shall be decreased by the value of the difference, using  
 27 the annuity tables applicable to the plan selected by the member.

28 (13) Except as otherwise specifically provided in this section, the rights and benefits under this  
 29 chapter of an active or retired member of the system or of a beneficiary of the member are not af-  
 30 fected by this section and the provisions of this chapter applicable to **regular** accounts of active  
 31 and retired members of the system in the [*Public Employees Retirement*] fund are also applicable to  
 32 [*such*] **variable** accounts [*in the Variable Annuity Account*].

33 (14)(a) In addition to the transfer provided for in subsection (9) of this section, a member of the  
 34 system who has [*an*] **a variable** account [*in the Variable Annuity Account*] may at any time prior to  
 35 retirement elect to transfer the balance in that account to the **regular** account of the member in  
 36 the [*Public Employees Retirement*] fund if:

37 (A) The member is other than a police officer or firefighter and has attained the age of 50;

38 (B) The member is a police officer or firefighter and has attained the age of 45; or

39 (C) The member has a combined total of 25 years or more of creditable service in the system  
 40 and prior service credit [*under ORS 238.225*].

41 (b) An election under paragraph (a) of this subsection is irrevocable, and a member who has so  
 42 elected may not thereafter elect to make contributions to the Variable Annuity Account under  
 43 subsection (3) of this section.

44 [*(c) An election under paragraph (a) of this subsection shall be filed with the board, and shall be*  
 45 *in such form as the board may provide by rule.*]

1        [(d)] (c) An election under paragraph (a) of this subsection shall be in writing and shall be filed  
 2 with the board. The board **by rule** shall prescribe a form for the purposes of application. An election  
 3 so made shall be effective on January 1 of the year following the year in which the election is made,  
 4 except that an election shall have no effect whatsoever unless the [*member's total*] **member** account  
 5 **of the member** [*in the system*] as of the effective date of the election is greater than what the  
 6 [*total*] **member** account of the member would have been had the member not participated in the  
 7 variable annuity program on or after January 1, 1982, not including the contributions made on sal-  
 8 ary in excess of \$4,800 per year during the period January 1, 1956, through December 31, 1967.

9        [(e)] (d) As of the effective date of an election under this subsection, the board shall credit all  
 10 earnings to the member's **variable** account [*in the Variable Annuity Account*] based on the actual  
 11 calendar year variable earnings rate for the year in which the election is made. This account bal-  
 12 ance shall:

13        (A) Be used by the board in determining whether the member's election is effective under par-  
 14 agraph [(d)] (c) of this subsection; and

15        (B) Be the account balance credited by the board to the **regular** account of the member in the  
 16 [*Public Employees Retirement*] fund if the election is determined to be effective.

17        [(f)] (e) The annuity of a member who makes an effective transfer under this subsection shall  
 18 be based on the [*member's*] **amount in the regular** account [*balance*] **of the member** in the [*Public*  
 19 *Employees Retirement*] fund as otherwise provided in this chapter, and the member shall not receive  
 20 a variable annuity as provided in this section.

21        **SECTION 48.** ORS 238.265 is amended to read:

22        238.265. (1) Except as otherwise provided in this section, a member of the Public Employees  
 23 Retirement System may withdraw from the Public Employees Retirement Fund the amount credited  
 24 to the [*employee*] **member** account for the member if:

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

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

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

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

31        (2) If a member wishes to withdraw the [*employee*] **member** account [*balance*] **of the member**  
 32 under this section, the member must transmit to the Public Employees Retirement Board a with-  
 33 drawal request. The board shall deny the withdrawal, or shall take all reasonable steps to recover  
 34 withdrawn amounts, if:

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

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

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

45        (4) Withdrawal of [*the employee*] **a member** account [*balance*] under this section cancels all



1 membership rights in the system, including the right to claim credit for any employment before  
2 withdrawal.

3 **SECTION 49.** ORS 238.270 is amended to read:

4 238.270. Whenever [*an employee*] a **person** who is past the earliest service retirement age sepa-  
5 rates from the service of a public employer participating in the Public Employees Retirement System  
6 and who thereafter, but before applying to the Public Employees Retirement Board for retirement  
7 benefits, is employed in a position [*which*] **that** entitles the [*employee*] **person** to membership in  
8 another public [*employees'*] **employees** retirement system, either within or without this state, the  
9 board, upon the written request of the [*employee*] **person** and if in conformance with the provisions  
10 of law governing the other public [*employees'*] **employees** retirement system, may transfer the  
11 **member** account [*balance*] of the [*employee under the Public Employees Retirement System*] **person**  
12 **in the fund** to the other public [*employees'*] **employees** retirement system. Such transfer shall cancel  
13 the right of the [*employee*] **person** to claim any future benefits under the Public Employees Retire-  
14 ment System for service rendered to a public employer in this state prior to the date of the transfer.

15 **SECTION 50.** ORS 238.300 is amended to read:

16 238.300. Upon retiring from service at normal retirement age or thereafter, [*a person who is*] a  
17 member of the system shall receive a service retirement allowance which shall consist of the fol-  
18 lowing annuity and pensions:

19 (1) A refund annuity which shall be the actuarial equivalent of accumulated contributions by the  
20 member and interest thereon credited at the time of retirement, which annuity shall provide an al-  
21 lowance payable during the life of the member and at death a lump sum equal in amount to the  
22 difference between accumulated contributions at the time of retirement and the sum of the annuity  
23 payments actually made to the member during life shall be paid to such person, if any, as the  
24 member nominates by written designation duly acknowledged and filed with the board or shall oth-  
25 erwise be paid according to the provisions of this chapter for disposal of an amount credited to the  
26 **member** account of a member at the time of death in the event the member designates no benefi-  
27 ciary to receive the amount or no such beneficiary is able to receive the amount. If death of the  
28 member occurs before the first payment is due, the **member** account of the member shall be treated  
29 as though death had occurred before retirement.

30 (2)(a) A life pension (nonrefund) for current service provided by the contributions of employers,  
31 which pension, subject to paragraph (b) of this subsection, shall be an amount which, when added  
32 to the sum of the annuity under subsection (1) of this section and the annuity, if any, provided on  
33 the same basis and payable from the Variable Annuity Account, both annuities considered on a re-  
34 fund basis, results in a total of:

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

38 (B) For service as a member of the Legislative Assembly, two percent of final average salary  
39 multiplied by the number of years of membership in the system as a member of the Legislative As-  
40 sembly before the effective date of retirement.

41 (C) For service as other than a police officer, firefighter or member of the Legislative Assembly,  
42 1.67 percent of final average salary multiplied by the number of years of membership in the system  
43 as other than a police officer, firefighter or member of the Legislative Assembly before the effective  
44 date of retirement.

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

1 (A) The actuarial equivalent of the annuity provided by the accumulated contributions of the  
2 member.

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

5 (c) As used in this subsection, "number of years of membership" means the number of full years  
6 plus any remaining fraction of a year for which salary was paid and contributions to the Public  
7 Employees Retirement System made. Except as otherwise provided in this paragraph, in determining  
8 a remaining fraction a full month shall be considered as one-twelfth of a year and a major fraction  
9 of a month shall be considered as a full month. Membership of a school district employee, an em-  
10 ployee of the State Board of Higher Education engaged in teaching or other school activity at an  
11 institution of higher education or an employee of the State Office for Services to Children and  
12 Families, the Oregon Youth Authority, the Department of Corrections, the Mental Health and De-  
13 velopmental Disability Services Division or the State Board of Education engaged in teaching or  
14 other school activity at an institution supervised by the office, authority, board, department or di-  
15 vision, for all portions of a school year in a calendar year in which the district school, institution  
16 of higher education or school activity at an institution so supervised in which the member is em-  
17 ployed is normally in session shall be considered as a full one-half year of membership. The number  
18 of years of membership of a member who received a refund of contributions as provided in ORS  
19 237.976 (2) is limited to the number of years after the day before the date on which the refund was  
20 received. The number of years of membership of a member who is separated, for any reason other  
21 than death or disability, from all service entitling the member to membership in the system, who  
22 withdraws the amount credited to the **member** account of the member in the fund during absence  
23 from such service and who thereafter reenters the service of an employer participating in the system  
24 but does not repay the amount so withdrawn as provided in this chapter, is limited to the number  
25 of years after the day before the date of so reentering.

26 (3) An additional life pension (nonrefund) for prior service **credit**, including military service,  
27 credited to the member at the time of first becoming a member of the system, as elsewhere provided  
28 in this chapter, which pension shall be provided by the [*prior service*] contributions of the employer  
29 [*or, in case the member is an employee of a school district, by a uniform rate of contribution by all*  
30 *school districts*].

31 **SECTION 51.** ORS 238.320 is amended to read:

32 238.320. (1) Whenever an employee who is a member of the system is found, after being examined  
33 by one or more physicians selected by the board, to be mentally or physically incapacitated for an  
34 extended duration, as determined by medical examination, and thereby unable to perform any work  
35 for which qualified, by injury or disease sustained while in actual performance of duty and not in-  
36 tentiously self-inflicted, the member shall receive a disability retirement allowance consisting of:

37 (a) A disability retirement refund annuity based on the contributions credited to the **member**  
38 account of the member.

39 (b) A current service pension provided by the contributions of employers equal to:

40 (A) For a police officer or firefighter, the pension to which the member would have been entitled  
41 if the member had worked continuously until attaining the age of 55, or if the member has attained  
42 the age of 55, the pension which the member would receive were the member to retire for service,  
43 as provided in this chapter.

44 (B) For [*an employee*] a **member** other than a police officer or firefighter, the pension to which  
45 the member would have been entitled if the member had worked continuously until attaining the age

1 of 58, or if the member has attained the age of 58, the pension which the member would receive were  
2 the member to retire for service, as provided in this chapter.

3 (c) The same prior service pension the member would have received had the member worked  
4 until normal retirement age.

5 (2) As used in subsection (1) of this section, "injury" means bodily injury causing the disability  
6 directly and independently of all other causes and effected solely through accidental means.

7 (3) Whenever an employee who is a member of the system and who has been an employee for  
8 10 years or more of an employer participating in the system is found, after being examined by one  
9 or more physicians selected by the board, to be mentally or physically incapacitated for an extended  
10 duration, as determined by medical examination, and thereby unable to perform any work for which  
11 qualified, from cause other than injury or disease sustained while in actual performance of duty or  
12 intentionally self-inflicted, the member shall receive a disability retirement allowance as provided  
13 in subsection (1) of this section.

14 (4) Payments under a disability retirement allowance provided for in subsection (1) or (3) of this  
15 section for the first 90-day period of incapacity shall be withheld until such 90-day period has  
16 elapsed.

17 (5) An inactive member is not eligible for disability benefits referred to in subsection (1) or (3)  
18 of this section unless the member applies for such disability benefits within five calendar years after  
19 the date of separation from service with a participating public employer if the disability is contin-  
20 uous from such separation date or within six months after the date of such separation from service  
21 if disability occurs after such separation date.

22 (6) In computing years of employment for the purpose of subsection (3) of this section, the fol-  
23 lowing schedule shall be used: For employment before the employee established membership in the  
24 Public Employees Retirement System, a member shall be considered to have been employed for one  
25 year for each year of prior service credit allowed, and for any minor fraction of a year of continuous  
26 service as certified by the employer for which no prior service credit was granted. After having  
27 established membership in the Public Employees Retirement System a member shall be considered  
28 to have been employed one year for each 12-month period or major fraction thereof during which  
29 time the member received compensation for employment which entitled the member to membership  
30 in the system, as evidenced by payroll records. For the purpose of determining a member's eligibility  
31 for disability benefits, no leave of absence after [*an employee*] **a member** ceases to work for any  
32 participating employer shall be considered other than accumulated sick leave not in excess of 90  
33 days. The effective date of the disability shall not in any event be determined by the board as prior  
34 to the last day for which the disabled member performed services for a participating employer. No  
35 benefits may be paid for any month in which the [*employee*] **member** received salary or sick leave  
36 benefits from the participating employer.

37 (7) For the purposes of subsections (1) and (3) of this section, a member of the system shall be  
38 considered to be mentally or physically incapacitated for an extended duration if the mental or  
39 physical incapacity can be expected to result in death or has lasted or can be expected to last for  
40 a continuous period of not less than 90 days.

41 **SECTION 52.** ORS 238.325 is amended to read:

42 238.325. (1) At any time after establishing membership, but before the expiration of 90 days after  
43 the board makes its finding that the employee is disabled, an employee who is a member of the  
44 system may elect to convert the disability retirement allowance otherwise payable on the **member**  
45 account of the [*employee*] **member** into a disability retirement annuity of equivalent actuarial value,

1 by selecting one of the optional forms named below. The election of Option 2, 2A, 3 or 3A shall be  
2 effective immediately upon the effective date of the member's disability, and in the event of death  
3 within the first 90-day period of incapacity, payment to the beneficiary of the member shall be made  
4 in accordance with the option selected.

5 Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be  
6 the actuarial equivalent of the accumulated contributions and interest thereon credited to the  
7 member at the time the member retires (if death occurs before the first payment is due, the **member**  
8 **account of the member** shall be treated as though death had occurred before retirement); (b) a life  
9 pension (nonrefund) provided by the contributions of employers as provided in ORS 238.320 (1)(b); (c)  
10 an additional nonrefund pension for prior service **credit**, including military service, credited to the  
11 member at the time the member first becomes a member of the system, as elsewhere provided in this  
12 chapter, which pension shall be provided by the [*prior service*] contributions of the employer [*or, in*  
13 *case the member is an employee of a school district, by a uniform rate of contribution by all school*  
14 *districts*]; or

15 Option 2. A reduced disability retirement allowance payable during the period of incapacity,  
16 with the provision that after death, if death shall occur after the effective date of the disability and  
17 during the period of incapacity, it shall continue for the life of the beneficiary whom the member  
18 has designated in writing duly acknowledged and filed with the Public Employees Retirement Board  
19 at the time of election, should the beneficiary survive the member; or

20 Option 2A. A reduced disability retirement allowance payable during the period of incapacity  
21 which, unless modified under subsection (3) of this section, continues after death, if death shall occur  
22 after the effective date of the disability and during the period of incapacity, for the life of the ben-  
23 efitary whom the member nominates by written designation duly acknowledged and filed with the  
24 board at the time of election, should the beneficiary survive the member; or

25 Option 3. A reduced disability retirement allowance payable during the period of incapacity,  
26 with the provision that after death, if death shall occur after the effective date of the disability and  
27 during the period of incapacity, such allowance shall continue at one-half the rate paid to the  
28 member and be paid for the life of the beneficiary whom the member has designated in writing duly  
29 acknowledged and filed with the board at the time of election, should the beneficiary survive the  
30 member; or

31 Option 3A. A reduced disability retirement allowance payable during the period of incapacity  
32 which, unless modified under subsection (3) of this section, continues after death, if death shall occur  
33 after the effective date of the disability and during the period of incapacity, at one-half the rate paid  
34 to the member and is paid for the life of the beneficiary whom the member nominates by written  
35 designation duly acknowledged and filed with the board at the time of election, should the benefi-  
36 ciary survive the member; or

37 Option 4. A reduced disability retirement allowance payable during the period of incapacity,  
38 with the provisions that if the member dies during the period of incapacity and before a total of 180  
39 monthly payments is made, the remainder of the 180 monthly payments shall be paid monthly to the  
40 beneficiary the member nominates by written designation duly acknowledged and filed with the  
41 board at any time before the member's death; and that if the member designates no beneficiary to  
42 receive the monthly payments or no such beneficiary is able to receive the monthly payments, an  
43 amount equal to the actuarial value, on the date of the member's death, of the total of the monthly  
44 payments not made to the member shall be paid according to ORS 238.390 for disposal of an amount  
45 credited to the **member** account of a member at the time of death; and that if the beneficiary re-

1 ceiving monthly payments dies before the total number of monthly payments to which the benefi-  
 2 ary is entitled is made, an amount equal to the actuarial value, on the date of the beneficiary's  
 3 death, of the total of the monthly payments not made to the member and beneficiary shall be paid  
 4 according to ORS 238.390 for disposal of an amount credited to the **member** account of a member  
 5 at the time of death and as if the beneficiary had been a member.

6 (2) The beneficiary designated by a member to receive any benefit under this section shall be  
 7 the same as designated under ORS 238.390 (1). The designation of a beneficiary or the election of  
 8 an option may be changed by a member within 60 days after the date of the first benefit payment,  
 9 except that the designation of a beneficiary under Option 4 may be changed by the member at any  
 10 time before the member's death.

11 (3) If a retired member has elected to receive a [*service*] **disability** retirement allowance under  
 12 Option 2A or Option 3A as provided in subsection (1) of this section, and if the beneficiary under  
 13 that option dies after the expiration of the time within which the member could change the election  
 14 of an option or if the beneficiary is the spouse of the member and the marriage relationship is ter-  
 15 minated as provided by law after the expiration of the time within which the member could change  
 16 the election of an option, the member may elect to receive, in lieu of the optional form of allowance  
 17 previously elected, the allowance that the member would have received on the effective date of re-  
 18 tirement under Option 1 as provided in subsection (1) of this section and adjusted by the actual  
 19 amount of any cost of living or other post-retirement adjustments made to the original allowance  
 20 since the effective date of retirement. Notice of election under this subsection shall be in a form  
 21 approved by the board. Payment under Option 1 shall be effective for months beginning on or after  
 22 the date the board receives the election.

23 (4) The cost to the retirement system of a disability retirement allowance in any optional form  
 24 shall not exceed the cost to the retirement system of a nonrefund disability retirement allowance  
 25 payable to, and on account of, the member making such election.

26 (5) The obligation for payment of any benefit in force prior to April 8, 1953, shall not be altered  
 27 by subsections (1) to (4) of this section. However, the beneficiary of a retired member who prior to  
 28 July 1, 1953, elected an option but died prior to the effective date of such election, shall have a right  
 29 to repay, before December 31, 1953, the amount of the lump sum refund made in lieu of the monthly  
 30 life benefit elected and receive payment of such benefit, computed as of the date of the member's  
 31 death and payable from such date.

32 (6) If a member who would have qualified for disability benefits makes preliminary application  
 33 for such benefits but dies prior to being found by the board to be disabled or prior to electing a plan  
 34 of benefit payments, and the records of the board indicate that the member had designated the sur-  
 35 viving spouse as beneficiary under ORS 238.390 (1), such surviving spouse may, not more than 90  
 36 days after the board makes its finding that the member would have qualified for disability benefits  
 37 if living:

38 (a) Elect to receive the amount referred to in ORS 238.395 if such benefit would have been  
 39 available if the member had not applied for disability benefits; [*or*]

40 (b) If not eligible for benefits under ORS 238.395, elect to receive benefits under ORS 238.390 (1);  
 41 or

42 (c) Elect Option 2 or 3 under subsection (1) of this section and designate the surviving spouse  
 43 as beneficiary thereunder with the same force and effect as if the election and designation had been  
 44 properly made by the deceased member.

45 (7) The board may deny an election to convert a disability retirement allowance under this

1 section, a change of beneficiary under this section or a change in benefit options under this section  
 2 if that denial is required to maintain the status of the system and the Public Employees Retirement  
 3 Fund as a qualified governmental retirement plan and trust under the Internal Revenue Code and  
 4 under regulations adopted pursuant to the Internal Revenue Code.

5 **SECTION 53.** ORS 238.340 is amended to read:

6 238.340. When a member retired because of disability is determined by the Public Employees  
 7 Retirement Board to be not incapacitated to the extent that the member is disabled from the per-  
 8 formance of any work for which the member is qualified, the disability retirement shall be canceled  
 9 forthwith, the member shall be eligible for reemployment and the [*individual*] **member** account of  
 10 the member shall be credited with the amount [*which*] **that** stood to the credit in the **member** ac-  
 11 count of the member in the fund at the time of retirement for disability. Any such person who for  
 12 any reason is not reinstated in the service of an employer participating in the system shall receive  
 13 separation benefits or service retirement benefits as provided in this chapter.

14 **SECTION 54.** ORS 238.380 is amended to read:

15 238.380. (1)(a) Upon retirement of an employee who is a member of the Public Employees Re-  
 16 tirement System and computation of that member's service retirement allowance under ORS 238.300,  
 17 238.305 or 238.425, or computation of any disability retirement allowance under ORS 238.320,  
 18 238.325, 238.330, 238.345 or 238.425, the Public Employees Retirement Board shall add to the amount  
 19 of the allowance, including amounts attributable to prior service credit [*acquired under ORS*  
 20 *238.225*] and the amount of any refund of accumulated employee contributions, the greater of the  
 21 percentage increase calculated under ORS 238.385 or a percentage increase calculated under sub-  
 22 section (4) of this section. No benefit shall be paid to a member or beneficiary under ORS 238.385  
 23 if the benefit payable to the member or beneficiary under this section is larger than the benefit  
 24 payable under ORS 238.385.

25 (b) The percentage increase provided for in this section shall be adjusted by the board to reflect  
 26 increases or decreases in a member's retirement allowance that are attributable to the member's  
 27 participation in the Variable Annuity Account established by ORS 238.260, that are attributable to  
 28 a change in the member's beneficiary or payment option under ORS 238.305 or 238.325, or that are  
 29 attributable to corrections to the member's retirement allowance calculation.

30 (c) The percentage increase provided for in this section shall be applied to any lump sum pay-  
 31 ment made to a member or a beneficiary of a member on or after January 1, 1991, that is attribut-  
 32 able to a retroactive correction or adjustment of the amount payable to the member or beneficiary  
 33 as a retirement allowance or that is attributable to a retroactive correction or adjustment to any  
 34 other benefit that entitles a member or beneficiary to an increased benefit under this section. The  
 35 percentage increase payable under this paragraph applies only to the principal amounts included in  
 36 the lump sum payment as a retroactive correction or adjustment and does not apply to any interest  
 37 on the retroactive correction or adjustment paid as part of the lump sum payment.

38 (2) The amount of any death benefit under ORS 238.390, 238.395, 238.400 or 238.405, including  
 39 the amount of any monthly payments, shall be increased by the greater of the percentage provided  
 40 for in ORS 238.385 or the percentage calculated under subsection (4) of this section.

41 (3)(a) A member of the system who elects to receive a lump sum in lieu of a retirement allow-  
 42 ance or other benefit under ORS 238.315 shall receive an increase based on the greater of the per-  
 43 centage provided for in ORS 238.385 or the percentage calculated under subsection (4) of this  
 44 section.

45 (b) A member of the system who withdraws the amount credited to the [*employee's*] **member**

1 account **of the member** in the fund under the provisions of ORS 238.265, or whose **member** account  
 2 is returned to the employee after the membership of the employee is terminated under the provisions  
 3 of ORS 238.095, shall receive an additional amount calculated by multiplying the amount of the  
 4 [*employee's*] **member account of the member** by the greater of the percentage provided for in ORS  
 5 238.385 or the percentage calculated under subsection (4) of this section. If a member thereafter  
 6 elects to obtain restoration of creditable service by repaying the amount of the withdrawn  
 7 [*employee*] **member** account pursuant to the provisions of ORS 238.105, the member must also repay  
 8 all amounts paid under this section, together with interest from the date of withdrawal at the same  
 9 rate as applied to the withdrawn [*employee*] **member** account under ORS 238.105. If a member re-  
 10 pays only part of the withdrawn [*employee*] **member** account pursuant to the provisions of ORS  
 11 238.115, the member must repay that part of the amount paid under this section that is proportionate  
 12 to the portion of the withdrawn [*employee*] **member** account that is repaid under ORS 238.115, to-  
 13 gether with interest from the date of withdrawal at the same rate as applied to the withdrawn  
 14 [*employee*] **member** account under ORS 238.115. All amounts paid to the member that are subse-  
 15 quently repaid under ORS 238.105 or 238.115 shall be deposited by the board to the employer reserve  
 16 for pension accounts in the fund.

17 (4)(a) The Public Employees Retirement Board shall calculate a multiplier for the purposes of  
 18 this section equal to the percentage produced by the following formula:

19 1

20 
$$\frac{1 - \text{the maximum Oregon}}{\text{personal income tax rate}}$$

21  
 22  
 23 (b) Upon the retirement or death of a member of the system, the board shall determine the  
 24 fraction of the member's retirement allowance or death benefit, including any refund or lump sum  
 25 payment, that is attributable to service rendered by the member before October 1, 1991. The board  
 26 shall then calculate a percentage that is equal to that fraction multiplied by the multiplier deter-  
 27 mined by the board under paragraph (a) of this subsection. The percentage so calculated shall be  
 28 used to determine the amount of the increase in benefits provided to a member, if any, under this  
 29 section.

30 (5) For the purpose of determining that portion of a retirement allowance or death benefit at-  
 31 tributable to service rendered before October 1, 1991, the board shall divide the number of years  
 32 of creditable service performed before October 1, 1991, by the total number of years of creditable  
 33 service during which the pension income was earned. For the purposes of this subsection:

34 (a) The number of years of creditable service does not include any period of employment for  
 35 which a benefit is paid for prior service [*under the provisions of ORS 238.225*] **credit**.

36 (b) Except as provided in subsection (8)(a) of this section, the number of years of creditable  
 37 service includes all retirement credit of the member, and any retirement credit of a member that is  
 38 attributable to periods of service, employment or other activity performed before October 1, 1991,  
 39 shall be considered creditable service performed before October 1, 1991.

40 (6) The increased benefits provided for in this section shall be funded by employer contributions.

41 (7) If the maximum Oregon income tax rate is changed for any taxable year, the board shall  
 42 utilize the new rate for the purposes of calculating the benefit provided for in this section for all  
 43 members of the system who retire or die after the change in rates takes effect. In addition, the board  
 44 shall recalculate the benefits payable to all retired members of the Public Employees Retirement  
 45 System, or to the beneficiaries of those members, using the new tax rate. The benefit so recalculated

1 shall be applicable to the first full month after the recalculation is made, and be payable the first  
2 day of the month immediately following. If by reason of the calculation or recalculation of the ben-  
3 efit under this subsection the amount of the benefit provided for in this section is decreased, any  
4 benefits paid after the change in the tax rate takes effect and before the calculation or recalculation  
5 is made shall not be recoverable by the system, but the Public Employees Retirement Board shall  
6 ensure that only the amount of the benefit so calculated or recalculated shall be paid after the  
7 calculation or recalculation is made.

8 (8)(a) The increased benefits provided by this section apply only to members who establish  
9 membership in the Public Employees Retirement System before July 14, 1995, and whose effective  
10 date of retirement or date of death is on or after January 1, 1991. The increased benefits provided  
11 by this section do not apply to any creditable service or prior service **credit** acquired by a member  
12 under the terms of a contract of integration entered into pursuant to ORS 238.035, 238.680 or 238.690  
13 on or after October 1, 1991.

14 (b) The recalculation of benefits provided for in subsection (7) of this section applies to all re-  
15 tired members, without regard to the date of the member's retirement or death.

16 (9) If a member is entitled to receive an increased benefit under the provisions of this section,  
17 and any portion of the member's retirement allowance or other benefit payable under the system is  
18 payable to an alternate payee under the provisions of ORS 238.465, the increased benefits payable  
19 under this section shall be divided between the member and the alternate payee in proportion to the  
20 share of the total benefit received by each person. If an alternate payee elects to begin receiving  
21 benefits under ORS 238.465 (1) before the member's effective date of retirement, the alternate payee  
22 may not begin receiving the increased benefit provided for in this section until benefits are first paid  
23 from the system on behalf of the member.

24 (10) A person establishes membership in the system before July 14, 1995, for the purposes of  
25 subsection (8) of this section if:

26 (a) The person is a member of the system, or a judge member of the system, on July 14, 1995;

27 (b) The person was a member of the system before July 14, 1995, ceased to be a member of the  
28 system under the provisions of ORS 238.095, 238.265 or 238.545 before July 14, 1995, but restores  
29 part or all of the forfeited creditable service from before July 14, 1995, under the provisions of ORS  
30 238.105 or 238.115 after July 14, 1995; or

31 (c) The person performed any period of service for a participating public employer before July  
32 14, 1995, that is credited to the six-month period of employment required of an employee under ORS  
33 238.015 before an employee may become a member of the system.

34 **SECTION 55.** ORS 238.385 is amended to read:

35 238.385. (1)(a) Upon retirement of an employee who is a member of the Public Employees Re-  
36 tirement System and computation of that member's service retirement allowance under ORS 238.300,  
37 238.305 or 238.425, or computation of any disability retirement allowance under ORS 238.320,  
38 238.325, 238.330, 238.345 or 238.425, the Public Employees Retirement Board shall add to the amount  
39 of the allowance, including amounts attributable to prior service credit [*acquired under ORS*  
40 *238.225*] and the amount of any refund of accumulated [*employee*] **member** contributions, an addi-  
41 tional amount equal to the percentage increase provided in subsection (4) of this section.

42 (b) The percentage increase provided for in this section shall be adjusted by the board to reflect  
43 increases or decreases in a member's retirement allowance that are attributable to the member's  
44 participation in the Variable Annuity Account established by ORS 238.260, that are attributable to  
45 a change in the member's beneficiary or payment option under ORS 238.305 or 238.325, or that are



1 attributable to corrections to the member's retirement allowance calculation.

2 (c) The percentage increase provided for in this section shall be applied to any lump sum pay-  
3 ment made to a member or a beneficiary of a member on or after January 1, 1991, that is attribut-  
4 able to a retroactive correction or adjustment of the amount payable to the member or beneficiary  
5 as a retirement allowance or that is attributable to a retroactive correction or adjustment to any  
6 other benefit that entitles a member or beneficiary to an increased benefit under this section. The  
7 percentage increase payable under this paragraph applies only to the principal amounts included in  
8 the lump sum payment as a retroactive correction or adjustment and does not apply to any interest  
9 on the retroactive correction or adjustment paid as part of the lump sum payment.

10 (2) The amount of any death benefit under ORS 238.390, 238.395, 238.400 or 238.405, including  
11 the amount of any monthly payments, shall be increased by an amount equal to the percentage in-  
12 crease provided in subsection (4) of this section.

13 (3)(a) A member of the system who receives a lump sum under ORS 238.315 in lieu of a retire-  
14 ment allowance or other benefit shall receive an additional amount equal to the percentage increase  
15 provided in subsection (4) of this section.

16 (b) A member of the system who withdraws the amount credited to the [*employee's*] **member**  
17 account **of the member** [*in the fund*] under the provisions of ORS 238.265, or whose **member** ac-  
18 count is returned to the employee after the membership of the employee is terminated under the  
19 provisions of ORS 238.095, shall receive an additional amount calculated by multiplying the amount  
20 of the [*employee's*] **member** account **of the member** by the percentage increase provided for under  
21 subsection (4) of this section. If a member thereafter elects to obtain restoration of creditable ser-  
22 vice by repaying the amount of the withdrawn [*employee*] **member** account pursuant to the pro-  
23 visions of ORS 238.105, the member must also repay all amounts paid under this section, together  
24 with interest from the date of withdrawal at the same rate as applied to the withdrawn [*employee*]  
25 **member** account under ORS 238.105. If a member repays only part of the withdrawn [*employee*]  
26 **member** account pursuant to the provisions of ORS 238.115, the member must repay that part of the  
27 amount paid under this section that is proportionate to the portion of the withdrawn [*employee*]  
28 **member** account that is repaid under ORS 238.115, together with interest from the date of with-  
29 drawal at the same rate as applied to the withdrawn [*employee*] **member** account under ORS  
30 238.115. All amounts paid to the member that are subsequently repaid under ORS 238.105 or 238.115  
31 shall be deposited by the board to the employer reserve for pension accounts in the fund.

32 (4)(a) The percentage increases provided for in this section to the benefits payable to or on ac-  
33 count of a member of the system who is serving as other than a police officer or firefighter at the  
34 time of death or retirement shall be:

35 (A) For a member with a combined total of 10 or more years of creditable service in the system  
36 and prior service credit [*under ORS 238.225*] but less than a combined total of 20 years, one percent.

37 (B) For a member with a combined total of 20 or more years of creditable service in the system  
38 and prior service credit [*under ORS 238.225*] but less than a combined total of 25 years, two percent.

39 (C) For a member with a combined total of 25 or more years of creditable service in the system  
40 and prior service credit [*under ORS 238.225*] but less than a combined total of 30 years, three per-  
41 cent.

42 (D) For a member with a combined total of 30 or more years of creditable service in the system  
43 and prior service credit [*under ORS 238.225*], four percent.

44 (b) The percentage increases provided for in this section to the benefits payable to or on ac-  
45 count of a member of the system who is serving as a police officer or firefighter at the time of death

1 or retirement shall be:

2 (A) For a member with a combined total of 10 or more years of creditable service in the system  
3 and prior service credit [*under ORS 238.225*] but less than a combined total of 20 years, one percent.

4 (B) For a member with a combined total of 20 or more years of creditable service in the system  
5 and prior service credit [*under ORS 238.225*] but less than a combined total of 25 years, two and  
6 one-half percent.

7 (C) For a member with a combined total of 25 or more years of creditable service in the system  
8 and prior service credit [*under ORS 238.225*], four percent.

9 (c) The benefits payable to or on account of a member with less than a combined total of 10  
10 years of creditable service in the system and prior service credit [*under ORS 238.225*] at the time  
11 of death or retirement shall not be increased under the provisions of this section.

12 (5) The increased benefits provided for in this section shall be funded by employer contributions.

13 (6) This section applies only to a member who establishes membership in the Public Employees  
14 Retirement System before July 14, 1995, as described in ORS 238.380 (10), and whose effective date  
15 of retirement or date of death is on or after January 1, 1991. The increased benefits provided by this  
16 section do not apply to any creditable service or prior service **credit** acquired by a member under  
17 the terms of a contract of integration entered into pursuant to ORS 238.035, 238.680 or 238.690 on  
18 or after October 1, 1991.

19 (7) If a member is entitled to receive an increased benefit under the provisions of this section,  
20 and any portion of the member's retirement allowance or other benefit payable under the system is  
21 payable to an alternate payee under the provisions of ORS 238.465, the increased benefits payable  
22 under this section shall be divided between the member and the alternate payee in proportion to the  
23 share of the total benefit received by each person. If an alternate payee elects to begin receiving  
24 benefits under ORS 238.465 (1) before the member's effective date of retirement, the alternate payee  
25 may not begin receiving the increased benefit provided for in this section until benefits are first paid  
26 from the system on behalf of the member.

27 **SECTION 56.** ORS 238.390 is amended to read:

28 238.390. (1) In the event that [*a person who is*] a member of the system dies before retiring, the  
29 amount of money credited at the time of death to the **member** account of the member in the fund  
30 shall be paid to the beneficiaries designated by the member. For this purpose a member may desig-  
31 nate as a beneficiary any person or the executor or administrator of the estate of the member or a  
32 trustee named by the member to execute an express trust in regard to such amount. The withdrawal  
33 from the fund of the amount in the **member** account of a member pursuant to ORS 238.265 shall  
34 not invalidate a prior designation of beneficiary in the event a member returns to covered employ-  
35 ment, regardless of whether the sum is repaid to the fund pursuant to ORS 238.105.

36 (2)(a) In the event that [*a person who is*] a member of the system dies before retiring and has  
37 not designated a beneficiary under subsection (1) of this section, the amount of money credited at  
38 the time of death to the **member** account of the member in the fund shall be paid to the deceased's  
39 estate if it is to be probated and, if not, then it shall be paid directly without probate to the sur-  
40 viving next of kin of the deceased or the guardian of the survivor's estate, share and share alike,  
41 payment to be made to survivors in the following groups in the order listed:

42 [(a)] (A) Husband or wife. [, or]

43 [(b)] (B) Children. [, or]

44 [(c)] (C) Father and mother. [, or]

45 [(d)] (D) Grandchildren. [, or]

1        *[(e)]* **(E)** Brothers and sisters. [*, or*]

2        *[(f)]* **(F)** Nieces and nephews.

3        **(b)** *[No]* Payment shall **not** be made to persons included in any of *[these]* **the groups listed in**  
4 **paragraph (a) of this subsection** should there be living at the date of payment persons in any of  
5 the groups preceding it as listed. Payment to the persons in any group, upon receipt from them of  
6 an affidavit upon a form supplied by the board, that there are no living individuals in a group pre-  
7 ceding it, that the estate of the deceased will not be probated and that the amount of money, to the  
8 full extent thereof if necessary, will be used to pay the expenses of last illness and funeral of the  
9 deceased, shall completely discharge the board and system on account of the death.

10        (3) The beneficiary designated under subsection (1) of this section may elect to receive the  
11 amount payable in actuarially determined monthly payments for the life of such beneficiary *[so]* **as**  
12 long as such monthly payments are at least \$30.

13        **(4)(a)** In the event that *[a person who is]* a member of the system dies before retiring, has not  
14 designated a beneficiary under subsection (1) of this section, has no surviving next of kin referred  
15 to in subsection (2) of this section and whose estate will not be probated, the amount of money  
16 credited at the time of death to the **member** account of the member in the fund shall be paid di-  
17 rectly without probate for the following purposes in the order listed:

18        *[(a)]* **(A)** Expenses of the funeral of the deceased.

19        *[(b)]* **(B)** Medical expenses of the last illness of the deceased.

20        *[(c)]* **(C)** Hospital expenses of the last illness of the deceased.

21        **(b)** Claims for payment of expenses under this subsection shall be filed with the board within  
22 six months after the date of death of the deceased. If no claims are filed within the six-month period,  
23 the amount shall be credited to the fund as are employer contributions. If a balance of the amount  
24 remains after payment of valid claims filed within the six-month period, the balance shall be credited  
25 to the fund as are employer contributions. Payments under this subsection shall completely dis-  
26 charge the board and system on account of the death.

27        (5) Accrued benefits due a retired member at the time of death are payable to the designated  
28 beneficiary and, if none, to the administrator or executor of the estate of the member. If the estate  
29 will not be probated, they may be paid, upon receipt by the board of the affidavit referred to in  
30 subsection **(2)(b)** of this section, to the next of kin in the order listed in subsection **(2)(a)** of this  
31 section. If the estate will not be probated and if there is no beneficiary or next of kin, accrued  
32 benefits or a balance due under a refund annuity option shall be paid or credited for the purposes  
33 and in the manner provided in subsection (4) of this section. For the purpose of determining accrued  
34 benefits due a retired member at the time of death, accrued benefits are considered to have ceased  
35 as of the last day of the month preceding the month in which the retired member dies; but if Option  
36 2 or Option 3 under ORS 238.305 has been elected as provided in this chapter and the beneficiary  
37 survives the retired member, the benefits to the beneficiary shall commence as of the first day of  
38 the month in which the retired member dies, and payment of benefits under Option 2 or Option 3  
39 shall cease with the payment for the month preceding the month in which the beneficiary dies.

40        (6) Interest upon the **member** account of the member shall accrue until the date that the  
41 *[amounts]* **amount** in the **member** account *[are]* **is** distributed. Any balance in the **variable** account  
42 of the deceased member *[in the Variable Annuity Account]* is considered to be transferred to the  
43 *[individual]* **regular** account of the member as of the date of death. The board shall establish pro-  
44 cedures for computing and crediting interest on the balance *[of]* **in** the **member** account for the  
45 period between the date of death and date of distribution.

1 (7) Payments by the Public Employees Retirement Board of credits or accrued benefits pursuant  
 2 to the beneficiary designation on file with the board or any affidavit referred to in subsection (2)(b)  
 3 of this section shall completely discharge the board and system on account of the death, and shall  
 4 hold the board and system harmless from any claim for wrongful payment.

5 **SECTION 57.** ORS 238.395 is amended to read:

6 238.395. (1) In addition to any other benefits under this chapter, a death benefit, provided by  
 7 [*current service*] contributions of the public employer under ORS 238.225, shall be paid to the bene-  
 8 ficiaries designated under ORS 238.390 (1) of a person who is an active or inactive member of the  
 9 system and who dies as a result of injuries received while employed in the service of the public  
 10 employer or within 120 days after termination from service with a participating public employer. A  
 11 member who is on a leave of absence without pay from employment with a participating public em-  
 12 ployer has not terminated service with that participating public employer for the purposes of this  
 13 section.

14 (2) The death benefit referred to in subsection (1) of this section shall be an amount equal to  
 15 the [*member's*] **amount in the member** account [*balance*] **of the deceased member** at the time of  
 16 death.

17 (3) In the event that a beneficiary has not been named as provided in subsection (1) of this  
 18 section and ORS 238.390 (1), the death benefit referred to in subsection (1) of this section shall be  
 19 paid to the same person or persons and in the same manner as provided for payment of money  
 20 credited to the **member** account of the member in ORS 238.390 (2).

21 (4) In the event that a beneficiary has not been designated and the deceased member has no  
 22 surviving next of kin referred to in ORS 238.390 (2)(a), the death benefit referred to in subsection  
 23 (1) of this section shall be used for the same purpose and in the same manner as provided for the  
 24 use of money credited to the **member** account of the member in ORS 238.390 (4)(a).

25 (5) The beneficiary designated under subsection (1) of this section and ORS 238.390 (1) may elect  
 26 to receive the amount payable in actuarially determined monthly payments for the life of such ben-  
 27 efitary [*so*] **as** long as such monthly payments, plus the monthly amount if elected under ORS  
 28 238.390 (3), are at least \$30.

29 (6) Interest upon the death benefit provided by this section shall accrue until the date that the  
 30 benefit is distributed. The board shall establish procedures for computing interest to be credited on  
 31 the benefit for the period between the date of death and date of distribution.

32 (7) Payments by the Public Employees Retirement Board of additional death benefits pursuant  
 33 to the beneficiary designation on file with the board or any affidavit referred to in ORS 238.390  
 34 (2)(b) shall completely discharge the board and system on account of the death, and shall hold the  
 35 board and system harmless from any claim for wrongful payment.

36 **SECTION 58.** ORS 238.425 is amended to read:

37 238.425. In the event that an employee who is a member of the system, who has made contri-  
 38 butions to the fund during each of five calendar years as established by this chapter, and who has  
 39 not attained earliest service retirement age, is separated, for any reason other than death or disa-  
 40 bility, from all service entitling the employee to membership in the system, the **member** account  
 41 **of the member** shall remain to the [*employee's*] **member's** credit in the fund unless the [*employee*]  
 42 **member** elects to withdraw it and there shall be paid such death benefits as this chapter provides;  
 43 or a disability retirement allowance or, after attaining earliest service retirement age, a service  
 44 retirement allowance, either of which shall consist of:

45 (1) An annuity which shall be the actuarial equivalent of the [*employee's*] **member's** accumu-

1 lated contributions and interest thereon credited to the *[employee]* **member**;

2 (2) A pension provided by the contributions of employers as provided in ORS 238.300 (2), but  
3 actuarially reduced and computed on the *[employee's]* **member's** then attained age; and

4 (3) An additional life pension (nonrefund) for prior service **credit**, including military service,  
5 credited to the *[employee]* **member** at the time the *[employee]* **member** first becomes a member of  
6 the system, as elsewhere provided in this chapter, which pension shall be provided by the *[prior*  
7 *service]* contributions of the employer *[or, in case the employee is an employee of a school district, by*  
8 *a uniform rate of contribution by all school districts; except that an employee who is entitled to benefits*  
9 *under ORS 1.310 to 1.390 (1989 Edition) shall not also be entitled to the prior service pension provided*  
10 *by this subsection].*

11 **SECTION 59.** ORS 238.515 is amended to read:

12 238.515. (1)(a) Each judge member shall contribute monthly to the Public Employees Retirement  
13 Fund seven percent of the monthly salary of the judge member. The contributions of a judge member  
14 shall be credited to the **member** account of the judge member *[in the fund]*.

15 (b) The state shall "pick-up," assume or pay the full amount of contributions to the fund required  
16 of judge members. The full amount of required judge member contributions "picked-up," assumed or  
17 paid by the state on behalf of judge members shall be considered "salary" only for the purpose of  
18 computing a judge member's "final average salary" within the meaning of ORS 238.535 (2) and not  
19 for any other purpose. The full amount of required judge member contributions "picked-up," assumed  
20 or paid by the state on behalf of judge members shall be added to the *[individual account balances]*  
21 **member account** of the judge members and shall be considered judge member contributions for all  
22 other purposes of ORS 238.500 to 238.585.

23 (2) The state shall make employer contributions to the fund in respect to judge members as  
24 provided in ORS 238.225 *[(1)]*. For the purposes of actuarial computation and contributions of the  
25 state based thereon under ORS 238.225 *[(1)]*, judge members shall be considered a separate group  
26 of employees.

27 **SECTION 60.** ORS 238.545 is amended to read:

28 238.545. (1) Except as otherwise provided in this section, a judge member may withdraw from  
29 the Public Employees Retirement Fund the amount credited to the *[employee]* **member** account  
30 *[for]* **of** the judge member if:

31 (a) The judge member has made contributions to the Public Employees Retirement System during  
32 each of five calendar years;

33 (b) The judge member is separated from all service with participating public employers;

34 (c) The judge member is separated from all service with employers who are treated as part of  
35 a participating public employer's controlled group under the federal laws and rules governing the  
36 status of the Public Employees Retirement System and the Public Employees Retirement Fund as a  
37 qualified governmental retirement plan and trust;

38 (d) The judge member has not attained 60 years of age; and

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

40 (2) If a judge member wishes to withdraw the *[employee]* **member** account balance under this  
41 section, the judge member must transmit to the Public Employees Retirement Board a withdrawal  
42 request. The board shall deny the withdrawal, or shall take all reasonable steps to recover with-  
43 drawn amounts, if:

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

45 (b) The judge member fails to remain absent from the service of all employers described in

1 subsection (1) of this section for at least one calendar month following the month in which the judge  
2 member separates from service.

3 (3) If a judge member who is eligible to withdraw as provided in subsection (1) of this section  
4 does not elect to withdraw, the **member** account of the judge member [*in the fund*] shall remain to  
5 the credit of the judge member, and the judge member is entitled to such death benefits and disa-  
6 bility retirement allowance as ORS 238.500 to 238.585 provide. Before attaining 60 years of age, a  
7 judge member who is eligible to withdraw as provided in subsection (1) of this section but who does  
8 not withdraw must elect in writing to retire under either ORS 238.535 (1)(a) or (b). The election is  
9 irrevocable after the judge member attains 60 years of age. Any inactive judge member who fails to  
10 make the election provided for in this subsection prior to attaining 60 years of age shall be retired  
11 under the provisions of ORS 238.535 (1)(a). The service retirement allowance of an inactive judge  
12 member who retires under ORS 238.535 (1)(a) shall be a reduced service retirement allowance that  
13 is the actuarial equivalent of the service retirement allowance provided for in ORS 238.535 (1)(a).  
14 An inactive judge member who elects to retire under ORS 238.535 (1)(b) must meet all other re-  
15 quirements imposed by ORS 238.535 for retirement under ORS 238.535 (1)(b).

16 (4) If approved by the Chief Justice of the Supreme Court, an inactive judge member who elects  
17 to retire under ORS 238.535 (1)(b) pursuant to the provisions of subsection (3) of this section may  
18 commence to serve the pro tem service obligation imposed by ORS 238.535 before the judge mem-  
19 ber's date of retirement. If the Chief Justice determines, at any time after the judge member com-  
20 mences performing the pro tem service obligation, that the judge member has failed to perform the  
21 pro tem services in the manner required by ORS 238.535 (1)(c), and the judge member has not been  
22 relieved of the obligation to perform those services in the manner provided by ORS 238.535 (1)(c),  
23 the Chief Justice shall notify the Public Employees Retirement Board. If the judge member has not  
24 yet retired, the board shall calculate the service retirement allowance of the noncomplying judge  
25 member at the time of retirement in the manner provided by ORS 238.535 (1)(a). If the judge member  
26 has retired, the board shall recalculate the service retirement allowance of the noncomplying judge  
27 member in the manner provided by ORS 238.535 (1)(a), and the noncomplying judge member shall  
28 receive only that recalculated amount thereafter. An inactive judge member may be relieved of the  
29 pro tem service obligation imposed by ORS 238.535 (1)(c) in the same manner as provided in ORS  
30 238.535 for retired judge members.

31 (5) Withdrawal of the [*employee*] **member** account balance under this section cancels all mem-  
32 bership rights in the system, including the right to claim credit for any employment before with-  
33 drawal.

34 (6) ORS 238.105 and 238.115 (1) apply to a former judge member who has withdrawn the [*em-*  
35 *ployee*] **member** account balance under this section.

36 **SECTION 61.** ORS 238.565 is amended to read:

37 238.565. (1) For the purposes of this section, the beneficiary of the judge member shall be any  
38 person, or the personal representative of the estate of the judge member, or a trustee named by the  
39 judge member to execute an express trust, whom the judge member designates as a beneficiary by  
40 written designation duly acknowledged and filed with the board before the death of the judge mem-  
41 ber.

42 (2)(a) If a judge member who has six or more years of service as a judge dies before retiring,  
43 and the judge member is not an inactive judge member who is performing a pro tem service obli-  
44 gation under the provisions of ORS 238.545 (4), the surviving spouse of the judge member shall re-  
45 ceive a life pension, payable monthly, equal to two-thirds of the service retirement allowance the

1 judge member would have received under ORS 238.535 (1)(a) had the judge member retired on the  
2 date of death.

3 (b) If a judge member who has six or more years of service as a judge dies before retiring, and  
4 the judge member is an inactive member who is performing a pro tem service obligation under the  
5 provisions of ORS 238.545 (4), the surviving spouse of the judge member shall receive a life pension,  
6 payable monthly, equal to two-thirds of the service retirement allowance the judge member would  
7 have received under ORS 238.535 (1)(b) had the judge member retired on the date of death.

8 (c) If a surviving spouse receiving a pension under paragraph (a) or (b) of this subsection dies  
9 and the total amount received as pension by the surviving spouse is less than the amount credited  
10 to the **member** account of the judge member in the fund on the date of death of the judge member,  
11 the beneficiary shall receive a lump sum amount equal to the difference between the total amount  
12 received by the surviving spouse and the amount so credited to the **member** account of the judge  
13 member.

14 (d) If a judge member who has six or more years of service as a judge dies before retiring and  
15 has no surviving spouse, the beneficiary shall receive a lump sum amount equal to the amount  
16 credited to the **member** account of the judge member in the fund on the date of death of the judge  
17 member.

18 (e) If the surviving spouse of a judge member who dies before retiring is not entitled to a pen-  
19 sion under paragraph (a) or (b) of this subsection, the surviving spouse shall receive a lump sum  
20 amount equal to the amount credited to the **member** account of the judge member in the fund on  
21 the date of death of the judge member.

22 (3)(a) If a judge member dies after retiring, the surviving spouse of the judge member shall re-  
23 ceive a life pension, payable monthly, equal to two-thirds of the retirement allowance the judge  
24 member is receiving or is entitled to receive on the date of death.

25 (b) If a surviving spouse receiving a pension under paragraph (a) or (b) of this subsection dies  
26 and the total amount received as retirement allowance by the retired judge member and as pension  
27 by the surviving spouse is less than the amount credited to the **member** account of the judge  
28 member on the date of retirement of the judge member, the beneficiary shall receive a lump sum  
29 amount equal to the difference between the total amount received as retirement allowance and  
30 pension and the amount so credited to the **member** account of the judge member.

31 (c) If a judge member dies after retiring and has no surviving spouse, and the total amount re-  
32 ceived as retirement allowance by the retired judge member is less than the amount credited to the  
33 **member** account of the judge member on the date of retirement of the judge member, the benefi-  
34 ciary shall receive a lump sum amount equal to the difference between the total amount received as  
35 retirement allowance and the amount so credited to the **member** account of the judge member.

36 (4) At any time after becoming a judge member, but not later than the date on which the first  
37 payment on account of retirement is due, a judge member may elect to provide an addition to the  
38 pension of the surviving spouse of the judge member under subsection (3)(a) of this section by se-  
39 lecting a reduced retirement allowance for the judge member. The additional pension to the surviv-  
40 ing spouse shall be the actuarial equivalent of the reduction in the retirement allowance of the  
41 judge member and, in no event, when added to the pension under subsection (3)(a) of this section,  
42 shall it exceed the reduced retirement allowance elected by the judge member.

43 (5) Any accrued retirement allowance due a retired judge member that is unpaid at the time of  
44 death of the judge member shall be paid to the surviving spouse of the judge member; or if there is  
45 no surviving spouse, to the beneficiary of the judge member; or if there is no surviving spouse or

1 beneficiary, to the personal representative of the estate of the judge member; or if there is no sur-  
2 viving spouse or beneficiary and the estate of the judge member will not be probated, for the pur-  
3 poses and in the manner provided in ORS 238.390 (4)(a).

4 (6) Notwithstanding any other provision of this section, a judge member shall be considered to  
5 have died with no surviving spouse if:

6 (a) The judge member has entered into a prenuptial or antenuptial agreement with the spouse  
7 of the judge that provides that the spouse shall have no right or claim to a surviving spouse's pen-  
8 sion; and

9 (b) The judge member has filed a copy of the prenuptial or antenuptial agreement with the board  
10 before the death of the judge member.

11 (7) The board shall not be liable for any payment made to a beneficiary by reason of a prenuptial  
12 or antenuptial agreement filed with the board under subsection (6) of this section unless the board  
13 has actual knowledge that the agreement has been revoked.

14 **SECTION 62.** ORS 238.580 is amended to read:

15 238.580. (1) ORS 238.005 [(2) and (11)] **(3) and (20)**, 238.025, 238.078, 238.082, 238.092, 238.115 (1),  
16 238.250, 238.255, 238.260, 238.350, 238.380, 238.410, 238.415, 238.420, 238.445, 238.458, 238.460, 238.465,  
17 238.475, 238.600, 238.605, 238.610, 238.618, 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665,  
18 238.670 and 238.705 and the increases provided by ORS 238.385 for members of the system who are  
19 serving as other than police officers or firefighters apply in respect to service as a judge member.

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

22 **SECTION 63.** ORS 238.585 is amended to read:

23 238.585. (1) A judge member who has creditable service as other than a judge member is entitled  
24 to the use of all creditable service as a judge member for the purpose of establishing eligibility un-  
25 der ORS 238.115, 238.125, 238.135 or any other provision of this chapter that requires a specified  
26 number of years of creditable service.

27 (2) A judge member who has creditable service as other than a judge member is entitled to use  
28 of all creditable service as other than a judge member for the purpose of establishing eligibility  
29 under the provisions of ORS 238.385, 238.415, 238.420 or any other provision of this chapter that is  
30 applicable to a judge member and that requires a specified number of years of creditable service.

31 (3) A member of the system other than a judge member who separates from all service entitling  
32 the [employee] **person** to membership in the system and who withdraws the amount credited to the  
33 **member** account of the member in the fund may restore all rights forfeited by the withdrawal in  
34 the manner specified by ORS 238.105 if the [member] **person** becomes a judge member within five  
35 years after the date that the [employee] **person** is separated from all service entitling the  
36 [employee] **person** to membership in the system.

37 **SECTION 64.** ORS 238.665 is amended to read:

38 238.665. Contributions required by this chapter to be placed in the retirement fund, and interest  
39 required to be allocated to the **member** accounts of members of the retirement system and to par-  
40 ticipating employers, shall not be included in the biennial departmental budget of the board.

41 **SECTION 65.** ORS 238.675 is amended to read:

42 238.675. (1)(a) Any benefit payment that is payable as the result of the death of a member may  
43 be transferred by the Public Employees Retirement Board to another account or reserve in the fund  
44 if:

45 (A) The total benefit payable to the beneficiaries designated by the deceased member is less than



1 \$250 in amount;

2 (B) Ten years have passed since the death of the member; and

3 (C) No claim has been made for the benefit payment.

4 (b) Amounts transferred under this section shall be credited to accounts or reserves in the fund  
5 designated by the board in its discretion.

6 (c) The board shall establish procedures for the filing of a delayed claim by a beneficiary of a  
7 deceased member who would otherwise be entitled to receive a benefit payment. Delayed claims may  
8 be filed after the 10-year period provided for in paragraph (a) of this subsection.

9 (2)(a) The Public Employees Retirement Board may transfer the amount credited to the **member**  
10 account of [*an employee*] **a former member** to another account or reserve in the fund if:

11 (A) The total amount credited to the **member** account of the [*employee*] **former member** is less  
12 than \$250;

13 (B) The membership of the [*employee*] **person** in the system has been terminated under the pro-  
14 visions of ORS 238.095 (2); and

15 (C) Ten years have passed since the [*employee*] **former member** ceased to be a member of the  
16 system and no claim has been made for payment of the amount credited to the **member** account of  
17 the [*employee*] **former member**.

18 (b) Amounts transferred under this section shall be credited to reserves or accounts in the fund  
19 designated by the board in its discretion.

20 (c) The board shall establish procedures for the filing of a delayed claim by a former member  
21 of the system who would otherwise be entitled to receive amounts credited to the [*former*  
22 *member's*] **member account of the former member**. Delayed claims may be filed after the 10-year  
23 period provided for in paragraph (a) of this subsection.

24 **SECTION 66.** ORS 243.800 is amended to read:

25 243.800. (1) Notwithstanding any provision of ORS chapter 238 or ORS 243.910 to 243.945, the  
26 State Board of Higher Education may establish and administer an optional retirement plan for ad-  
27 ministrative and academic employees of the State System of Higher Education who are eligible for  
28 membership in the Public Employees Retirement System. The optional retirement plan must be a  
29 qualified plan under the Internal Revenue Code, capable of accepting funds transferred under sub-  
30 section (7) of this section without the transfer being treated as a taxable event under the Internal  
31 Revenue Code, and willing to accept those funds. Retirement and death benefits shall be provided  
32 under the plan by the purchase of annuity contracts, fixed or variable or a combination thereof, or  
33 by contracts for investments in mutual funds.

34 (2) The State Board of Higher Education shall select at least two life insurance companies pro-  
35 viding fixed and variable annuities and at least two investment companies providing mutual funds,  
36 but not more than five companies in total, for the purpose of providing benefits under the optional  
37 retirement plan authorized by this section. The State Board of Higher Education shall establish se-  
38 lection criteria for the purpose of this subsection.

39 (3) An administrative or academic employee may elect to participate in an optional retirement  
40 plan offered under the provisions of this section in the following manner:

41 (a) An administrative or academic employee who is an active member of the Public Employees  
42 Retirement System may make an irrevocable election to participate in the plan within 180 days after  
43 the plan's implementation date, effective as of the date of election.

44 (b) An employee, as defined in ORS 243.910 (2), who is an active member of the Public Employees  
45 Retirement System and who has elected, and not canceled that election, to be assisted by the State

1 Board of Higher Education under ORS 243.940 may make an irrevocable election to participate in  
2 the plan within 180 days of the plan's implementation date, effective as of the date of election.

3 (c) An administrative or academic employee who is hired after the plan's implementation date  
4 may make an irrevocable election to participate in the plan within the first six months of employ-  
5 ment, effective on the first of the month following six full months of employment.

6 (4) Administrative or academic employees who do not elect to participate in an optional retire-  
7 ment plan:

8 (a) Remain members of the Public Employees Retirement System if they are members on the date  
9 the plan is implemented;

10 (b) Continue to be assisted by the State Board of Higher Education under ORS 243.920 if they  
11 are being so assisted; or

12 (c) Become members of the Public Employees Retirement System in accordance with ORS  
13 chapter 238, if they commence employment after the optional plan is implemented.

14 (5) Except as provided in subsection (6) of this section, employees who elect to participate in the  
15 plan are ineligible for active membership in the Public Employees Retirement System or for any  
16 assistance by the State Board of Higher Education under ORS 243.920 as long as those employees  
17 are employed in the State System of Higher Education and the plan is in effect.

18 (6)(a) An administrative or academic employee who elects to participate in the optional retire-  
19 ment plan authorized by this section and who has not made contributions to the Public Employees  
20 Retirement System during each of five calendar years shall be considered by the Public Employees  
21 Retirement Board to be a terminated member under the provisions of ORS 238.095 effective as of the  
22 effective date of the election, and the amount credited to the **member** account of the [*employee*]  
23 **member** [*in the Public Employees Retirement Fund*] shall be transferred directly to the optional re-  
24 tirement plan by the Public Employees Retirement Board in the manner provided by subsection (7)  
25 of this section.

26 (b) An administrative or academic employee who elects to participate in the optional retirement  
27 plan authorized by this section and who has made contributions to the Public Employees Retirement  
28 System during each of five calendar years shall be considered to be an inactive member by the  
29 Public Employees Retirement Board and shall retain all the rights, privileges and options under ORS  
30 chapter 238 unless the employee withdraws the amounts credited to the **member** account of the  
31 [*employee*] **member** [*in the Public Employees Retirement Fund*] pursuant to ORS 238.265.

32 (7) Any withdrawals from the Public Employees Retirement Fund under subsection (6) of this  
33 section, whether by termination under subsection (6)(a) of this section or by elective withdrawal  
34 under subsection (6)(b) of this section, shall be transferred directly to the optional retirement plan  
35 by the Public Employees Retirement Board and shall not be made available to the employee.

36 (8) An employee participating in the optional retirement plan authorized by this section shall  
37 contribute monthly an amount equal to the percentage of the employee's salary that the employee  
38 would otherwise have contributed as an employee contribution to the Public Employees Retirement  
39 System if the employee had not elected to participate in the optional retirement plan.

40 (9) The State Board of Higher Education shall contribute monthly to the optional retirement  
41 plan authorized under this section the percentage of salary of each employee participating in the  
42 plan equal to the percentage of salary that would otherwise have been contributed as an employer  
43 contribution on behalf of the employee to the Public Employees Retirement System if the employee  
44 had not elected to participate in the optional retirement plan.

45 (10) Both employee and employer contributions to an optional retirement plan authorized under

1 this section shall be remitted directly to the companies that have issued annuity contracts to the  
2 participating employees or directly to the mutual funds.

3 (11) Benefits under the optional retirement plan authorized under this section are payable to  
4 employees who elect to participate in the plan and their beneficiaries by the selected annuity pro-  
5 vider or mutual fund in accordance with the terms of the annuity contracts or the terms of the  
6 contract with the mutual fund. Employees electing to participate in the plan agree that benefits  
7 payable under the plan are not obligations of the State of Oregon or of the Public Employees Re-  
8 tirement System.

9 **SECTION 67.** ORS 526.052 is amended to read:

10 526.052. (1) For purposes of this section, "forest protective association" or "association" has the  
11 meaning for that term provided in ORS 477.001.

12 (2) Subject to subsection (3) of this section, a person employed by a forest protective association  
13 at a time when the association was under contract or cooperative agreement with the forester or  
14 State Board of Forestry by authority of ORS chapter 477 and this chapter, with specific reference  
15 to ORS 477.406 to 477.412, or predecessor statutes, shall receive the following credits when trans-  
16 ferring directly from association employment to employment by the State Forestry Department:

17 (a) Sick leave accrual earned during employment as an association employee.

18 (b) Rate of accumulating annual leave based on years of service as an association employee.

19 (c) Credit for current service under the Public Employees Retirement System equal to periods  
20 of service as an association employee as determined by the Public Employees Retirement Board, if  
21 the person, before the effective date of retirement of the person as [*an employee*] a member of the  
22 system, applies in writing to the retirement board for that credit or any part thereof and pays to  
23 the retirement board in a lump sum for credit to the **member** account of the [*person*] **member** [*in*  
24 *the Public Employees Retirement Fund*] an amount determined by the retirement board to be equal  
25 to the total amount of employee and employer contributions with interest that would have accumu-  
26 lated had the person been a member of the system as an employee of the State Forestry Department  
27 in a position equivalent to that held by the person for the periods of service or part thereof as an  
28 association employee.

29 (3) The credits granted by subsection (2) of this section shall be granted if the employee makes  
30 an immediate transfer from association employment to state employment, and if the person earned  
31 employment credits as an association employee under standards comparable to laws and rules of the  
32 State of Oregon governing similar credits in state employment.

33 (4) Unless the employee transferring to employment with the State Forestry Department first  
34 becomes a member of the Public Employees Retirement System before January 1, 2000, as described  
35 in subsection (6) of this section:

36 (a) The employee may acquire credit under subsection (2)(c) of this section only after the em-  
37 ployee has been a member of the Public Employees Retirement System for at least 60 calendar  
38 months; and

39 (b) The maximum number of years of retirement credit that a person may acquire under sub-  
40 section (2)(c) of this section is five years.

41 (5) If a person subject to the limitation imposed by subsection (4)(b) of this section is also eli-  
42 gible for credit under ORS 238.145, and the person is subject to the limitation imposed by ORS  
43 238.145 (4), the total years of credit that the person may acquire under this section and under the  
44 provisions of ORS 238.145 may not exceed five years.

45 (6) A person becomes a member of the Public Employees Retirement System before January 1,

1 2000, for the purposes of this section if:

2 (a) The person is a member of the system on January 1, 2000; or

3 (b) The person was a member of the system before January 1, 2000, ceased to be a member of  
4 the system under the provisions of ORS 238.095, 238.265 or 238.545 before January 1, 2000, but re-  
5 stores part or all of the forfeited creditable service from before January 1, 2000, under the pro-  
6 visions of ORS 238.105 or 238.115 after January 1, 2000.

7  
8 **CONVERSION TO OPTIONAL**  
9 **SERVICE RETIREMENT CALCULATION**

10  
11 **SECTION 68.** ORS 238.305 is amended to read:

12 238.305. (1) *[At any time after establishing membership, but within]* **Not later than 60 days** after  
13 the date *[of]* the first benefit payment **is issued to a retired member of the system**, *[a person who*  
14 *is a]* **the** member *[of the system]* may elect to convert the allowance described by ORS 238.300 as  
15 payable after retirement into a service retirement annuity of equivalent actuarial value of one of the  
16 optional forms named below. The election of Option 2, 2A, 3 or 3A shall be effective immediately  
17 upon the member's retirement.

18 Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be  
19 the actuarial equivalent of accumulated contributions by the member and interest thereon credited  
20 at the time of retirement (if death occurs before the first payment is due, the **member** account shall  
21 be treated as though death had occurred before retirement); (b) a life pension (nonrefund) provided  
22 by the contributions of employers as provided in ORS 238.300 (2); (c) an additional nonrefund pension  
23 for prior service **credit**, including military service, credited to the member at the time of first be-  
24 coming a member of the system, as elsewhere provided in this chapter, which pension shall be pro-  
25 vided by the *[prior service]* contributions of the employer *[or, in case the member is an employee of*  
26 *a school district, by a uniform rate of contribution by all school districts];* or

27 Option 2. A reduced service retirement allowance payable during the member's life, with the  
28 provision that it continue after death for the life of the beneficiary the member nominates by written  
29 designation duly acknowledged and filed with the Public Employees Retirement Board at the time  
30 of election, should the beneficiary survive the member; or

31 Option 2A. A reduced service retirement allowance payable during the member's life which,  
32 unless modified under subsection (5) of this section, continues after death for the life of the benefi-  
33 ciary the member nominates by written designation duly acknowledged and filed with the board at  
34 the time of election, should the beneficiary survive the member; or

35 Option 3. A reduced service retirement allowance payable during the member's life, with the  
36 provision that it continue after death at one-half the rate paid to the member and be paid for the  
37 life of the beneficiary the member nominates by written designation duly acknowledged and filed  
38 with the board at the time of election, should the beneficiary survive the member; or

39 Option 3A. A reduced service retirement allowance payable during the member's life which,  
40 unless modified under subsection (5) of this section, continues after death at one-half the rate paid  
41 to the member and is paid for the life of the beneficiary the member nominates by written desig-  
42 nation duly acknowledged and filed with the board at the time of election, should the beneficiary  
43 survive the member; or

44 Option 4. A reduced service retirement allowance payable during the member's life, with the  
45 provisions that if the member dies before a total of 180 monthly payments is made, the remainder

1 of the 180 monthly payments shall be paid monthly to the beneficiary the member nominates by  
 2 written designation duly acknowledged and filed with the board at any time before the member's  
 3 death; and that if the member designates no beneficiary to receive the monthly payments or no such  
 4 beneficiary is able to receive the monthly payments, an amount equal to the actuarial value, on the  
 5 date of the member's death, of the total of the monthly payments not made to the member shall be  
 6 paid according to ORS 238.390 for disposal of an amount credited to the **member** account of a  
 7 member at the time of death; and that if the beneficiary receiving monthly payments dies before the  
 8 total number of monthly payments to which the beneficiary is entitled is made, an amount equal to  
 9 the actuarial value, on the date of the beneficiary's death, of the total of the monthly payments not  
 10 made to the member and beneficiary shall be paid according to ORS 238.390 for disposal of an  
 11 amount credited to the **member** account of a member at the time of death and as if the beneficiary  
 12 had been a member.

13 (2) *[At any time after establishing membership, but within]* **Not later than** 60 days after the date  
 14 *[of]* the first benefit payment **is issued to a retired member of the system**, *[a person who is a]*  
 15 **the member** *[of the system]* may elect, in lieu of the allowance described by ORS 238.300 as payable  
 16 after retirement, a service retirement benefit consisting of:

17 (a) A refund of accumulated contributions by the member and interest thereon credited at the  
 18 time of refund; and

19 (b) A life pension (nonrefund) provided by the contributions of employers as provided in ORS  
 20 237.147 (2) (1979 Replacement Part), and an additional life pension (nonrefund) for prior service  
 21 **credit** as provided in ORS 238.300 (3). At the same time as making the election under this sub-  
 22 section, the member may elect to convert the pensions described by this paragraph into a service  
 23 retirement annuity of equivalent actuarial value of one of the optional forms named as Option 2, 2A,  
 24 3 or 3A under subsection (1) of this section.

25 (3) If the member elects to receive the service retirement benefit described in subsection (2) of  
 26 this section, the member shall elect at the same time to receive the refund described in subsection  
 27 (2)(a) of this section in one lump sum payment or in more than one but not more than five install-  
 28 ment payments. If the member elects installment payments:

29 (a) The installment payments shall be paid once each year for the number of consecutive years  
 30 equal to the number of installment payments elected.

31 (b) The amount of each installment payment shall be designated by the member at the time of  
 32 making the election, but the last installment payment shall be the unrefunded balance remaining in  
 33 the *[individual]* **member** account of the member in the Public Employees Retirement Fund.

34 (c) The *[individual]* **member** account of the member in the fund shall be maintained until the  
 35 last installment payment is paid. The board shall establish procedures for computing and crediting  
 36 interest annually on the unrefunded balance of the **member** account.

37 (d) A yearly installment payment shall be paid on the anniversary of the date of the first in-  
 38 stallment payment.

39 (e) The member is considered to have elected to transfer any balance in the **variable** account  
 40 of the member *[in the Variable Annuity Account]* to the *[individual]* **regular** account of the member  
 41 *[in the fund]*.

42 (f) If the member dies before payment of all installment payments, the unrefunded balance in the  
 43 *[individual]* **member** account of the member *[in the fund]* plus interest to date of disbursement is  
 44 payable as provided in ORS 238.390 (5).

45 (4) The designation of a beneficiary, the election of an option or any other election or desig-

1 nation under subsection (1), (2) or (3) of this section may be changed by the member within 60 days  
2 after the date of the first benefit payment, except that the designation of a beneficiary under Option  
3 4 may be changed by the member at any time before the member's death.

4 (5) If a retired member has elected to receive a service retirement allowance under Option 2A  
5 or Option 3A as provided in subsection (1) of this section, and if the beneficiary under that option  
6 dies after the expiration of the time within which the member could change the election of an option  
7 or if the beneficiary is the spouse of the member and the marriage relationship is terminated as  
8 provided by law after the expiration of the time within which the member could change the election  
9 of an option, the member may elect to receive, in lieu of the optional form of allowance previously  
10 elected, the allowance that the member would have received on the effective date of retirement  
11 under Option 1 as provided in subsection (1) of this section and adjusted by the actual amount of  
12 any cost of living or other post-retirement adjustments made to the original allowance since the ef-  
13 fective date of retirement. Notice of election under this subsection shall be in a form approved by  
14 the board. Payment under Option 1 shall be effective for months beginning on or after the date the  
15 board receives the election.

16 (6) Notwithstanding any other provision of this section, any member of the system who retired  
17 before October 3, 1989, and elected to receive a service retirement allowance under either Option  
18 2 or 3 as provided in subsection (1) of this section shall be entitled to receive a service retirement  
19 allowance equal to that which the member would have received on the effective date of retirement  
20 under Option 1 as provided in subsection (1) of this section and adjusted by the actual amount of  
21 any cost of living or other post-retirement adjustments made to the original allowance since the ef-  
22 fective date of retirement if:

23 (a) The member has attained 80 years of age;

24 (b) The person designated by the member as the member's beneficiary has predeceased the  
25 member; and

26 (c) The member gives written notice to the board of the death of the member's beneficiary.

27 (7) Notwithstanding any other provision of this section, any member of the system who retired  
28 before October 3, 1989, who elected to receive a refund of accumulated employee contributions and  
29 a life pension or pensions under subsection (2) of this section, and who elected to convert the life  
30 pension or pensions provided for in subsection (2) of this section into a service retirement annuity  
31 under Option 2 or 3 under subsection (1) of this section, shall be entitled to receive a life pension  
32 or pensions equal to that which the member would have received on the effective date of retirement  
33 under subsection (2) of this section and adjusted by the actual amount of any cost of living or other  
34 post-retirement adjustments made to the original life pension or pensions since the effective date of  
35 retirement if:

36 (a) The member has attained 80 years of age;

37 (b) The person designated by the member as the member's beneficiary has predeceased the  
38 member; and

39 (c) The member gives written notice to the board of the death of the member's beneficiary.

40 (8) The service retirement allowance provided in subsection (6) or (7) of this section shall be  
41 applicable to the first full month after the death of the member's beneficiary, or the first full month  
42 after the member attains 80 years of age, whichever is later.

43 (9) The board may deny an election to convert a service retirement allowance under this section,  
44 a change of beneficiary under this section or a change in benefit options under this section if that  
45 denial is required to maintain the status of the system and the Public Employees Retirement Fund

1 as a qualified governmental retirement plan and trust under the Internal Revenue Code and under  
 2 regulations adopted pursuant to the Internal Revenue Code.

3  
 4 **DELETION OF OBSOLETE PROVISIONS**

5  
 6 **SECTION 69.** ORS 238.365 is amended to read:

7 238.365. [(1) In addition to any increase under ORS 238.360, first effective for the month of August  
 8 1981, payable September 1, 1981, the monthly retirement allowance payable to or on account of any  
 9 person who has retired as a member of the Public Employees Retirement System shall be increased by  
 10 a percentage based on the calendar year in which the person retired, as set forth in the following  
 11 table:]

12 [ \_\_\_\_\_ ]

<i>[Calendar Year of Retirement</i>	<i>Percentage Increase</i>
<i>1980</i>	<i>4.00</i>
<i>1979</i>	<i>4.32</i>
<i>1978</i>	<i>4.76</i>
<i>1977</i>	<i>4.44</i>
<i>1976</i>	<i>4.72</i>
<i>1975</i>	<i>4.92</i>
<i>1974</i>	<i>5.28</i>
<i>1973</i>	<i>5.92</i>
<i>1972</i>	<i>6.20</i>
<i>1971</i>	<i>6.36</i>
<i>1970</i>	<i>6.60</i>
<i>1969</i>	<i>6.88</i>
<i>1968</i>	<i>7.20</i>
<i>1967</i>	<i>7.36</i>
<i>1966</i>	<i>7.56</i>
<i>1965</i>	<i>7.88</i>
<i>1964</i>	<i>8.12</i>
<i>1963</i>	<i>8.32</i>
<i>1962</i>	<i>8.56</i>
<i>1961</i>	<i>8.64</i>
<i>1960</i>	<i>8.76</i>
<i>1959</i>	<i>8.96</i>
<i>1958</i>	<i>9.08</i>
<i>1957</i>	<i>9.28</i>
<i>1956</i>	<i>9.68</i>
<i>1955</i>	<i>10.00</i>
<i>1954</i>	<i>10.04</i>
<i>1953</i>	<i>10.16</i>
<i>1952</i>	<i>10.56</i>
<i>1951</i>	<i>10.64</i>
<i>1950 or any previous year</i>	<i>11.40</i>

1 [ \_\_\_\_\_ ]  
 2  
 3 [(2) In addition to any increase under ORS 238.360 and subsection (1) of this section, first effective  
 4 for the month of July 1982, payable August 1, 1982, the monthly retirement allowance payable to or  
 5 on account of any person who has retired as a member of the Public Employees Retirement System  
 6 shall be increased by a percentage based on the calendar year in which the person retired. The per-  
 7 centage shall be four percent in respect to a person who retired in the calendar year 1981. The per-  
 8 centage in respect to a person who retired in a calendar year previous to the calendar year 1981 shall  
 9 be the applicable percentage in the table set forth in subsection (1) of this section.]

10 [(3) In addition to any increase under ORS 238.360, first effective for the month of July 1985,  
 11 payable August 1, 1985, the monthly retirement allowance payable to or on account of any person who  
 12 has retired as a member of the Public Employees Retirement System shall be increased by a percentage  
 13 based on the calendar year in which the person retired, as set forth in the following table:]

14 [ \_\_\_\_\_ ]

15	<i>[Calendar Year</i>	<i>Percentage</i>
16	<i>of Retirement</i>	<i>Increase</i>
17	<i>1983</i>	<i>3.00</i>
18	<i>1982</i>	<i>3.01</i>
19	<i>1981</i>	<i>3.09</i>
20	<i>1980</i>	<i>3.24</i>
21	<i>1979</i>	<i>3.48</i>
22	<i>1978</i>	<i>3.80</i>
23	<i>1977</i>	<i>3.57</i>
24	<i>1976</i>	<i>3.77</i>
25	<i>1975</i>	<i>3.92</i>
26	<i>1974</i>	<i>4.17</i>
27	<i>1973</i>	<i>4.63</i>
28	<i>1972</i>	<i>4.82</i>
29	<i>1971</i>	<i>4.93</i>
30	<i>1970</i>	<i>5.09</i>
31	<i>1969</i>	<i>5.28</i>
32	<i>1968</i>	<i>5.49</i>
33	<i>1967</i>	<i>5.60</i>
34	<i>1966</i>	<i>5.73</i>
35	<i>1965</i>	<i>5.94</i>
36	<i>1964</i>	<i>6.09</i>
37	<i>1963</i>	<i>6.22</i>
38	<i>1962</i>	<i>6.37</i>
39	<i>1961</i>	<i>6.42</i>
40	<i>1960</i>	<i>6.50</i>
41	<i>1959</i>	<i>6.62</i>
42	<i>1958</i>	<i>6.70</i>
43	<i>1957</i>	<i>6.82</i>
44	<i>1956</i>	<i>7.06</i>
45	<i>1955</i>	<i>7.25</i>



1 1954 or any previous year 7.28]

2 [ \_\_\_\_\_ ]

3  
4 [(4) In addition to any increase under ORS 238.360 and subsection (3) of this section, first effective  
5 for the month of July 1986, payable August 1, 1986, the monthly retirement allowance payable to or  
6 on account of any person who has retired as a member of the Public Employees Retirement System  
7 shall be increased by a percentage based on the calendar year in which the person retired. The per-  
8 centage shall be three percent in respect to a person who retired in the calendar year 1984. The per-  
9 centage in respect to a person who retired in a calendar year previous to the calendar year 1984 shall  
10 be the applicable percentage in the table set forth in subsection (3) of this section.]

11 [(5) In addition to any increase under ORS 238.360, first effective for the month of July 1989,  
12 payable August 1, 1989, the monthly retirement allowance payable to or on account of any person who  
13 has retired as a member of the Public Employees Retirement System shall be increased by a percentage  
14 based on the calendar year in which the person retired, as set forth in the following table:]

15 [ \_\_\_\_\_ ]

<i>[Calendar Year</i>	<i>Percentage</i>
<i>of Retirement</i>	<i>Increase</i>
18 1988	0
19 1987	0
20 1986	0
21 1985	0
22 1984	0
23 1983	0
24 1982	0
25 1981	0
26 1980	3
27 1979	11
28 1978	16
29 1977	3
30 1976	7
31 1975	15
32 1974	25
33 1973	14
34 1972	15
35 1971	0
36 1970	0
37 1969	4
38 1968	7
39 1967	0
40 1966	0
41 1965	0
42 1964	0
43 1963	1
44 1962	1
45 1961	2

1	1960	3
2	1959	3
3	1958	5
4	1957	9
5	1956	9
6	1955	7
7	1954	8
8	1953	8
9	1952	10
10	1951	19
11	1950 or any previous year	18]

[ \_\_\_\_\_ ]

13 [(6)] (1) In addition to any increase under ORS 238.360, first effective for the month of December  
 14 1990, payable January 1, 1991, the monthly retirement allowance payable to or on account of any  
 15 person who has retired as a member of the Public Employees Retirement System shall be increased  
 16 by the following percentages:

17 (a) If the member was serving as other than a police officer or firefighter at the time of retire-  
 18 ment, the percentage increase shall be:

19 (A) For a member with a combined total of 10 or more years of creditable service in the system  
 20 and prior service credit [under ORS 238.225] but less than a combined total of 20 years, one percent.

21 (B) For a member with a combined total of 20 or more years of creditable service in the system  
 22 and prior service credit [under ORS 238.225] but less than a combined total of 25 years, two percent.

23 (C) For a member with a combined total of 25 or more years of creditable service in the system  
 24 and prior service credit [under ORS 238.225] but less than a combined total of 30 years, three per-  
 25 cent.

26 (D) For a member with a combined total of 30 or more years of creditable service in the system  
 27 and prior service credit [under ORS 238.225], four percent.

28 (b) If the member was serving as a police officer or firefighter at the time of retirement, the  
 29 percentage increase shall be:

30 (A) For a member with a combined total of 10 or more years of creditable service in the system  
 31 and prior service credit [under ORS 238.225] but less than a combined total of 20 years, one percent.

32 (B) For a member with a combined total of 20 or more years of creditable service in the system  
 33 and prior service credit [under ORS 238.225] but less than a combined total of 25 years, two and  
 34 one-half percent.

35 (C) For a member with a combined total of 25 or more years of creditable service in the system  
 36 and prior service credit [under ORS 238.225], four percent.

37 (c) The monthly retirement allowance payable to or on account of a member with less than a  
 38 combined total of 10 years of creditable service in the system and prior service credit [under ORS  
 39 238.225] at the time of retirement shall not be increased under the provisions of this subsection.

40 [(7)] (2) In addition to any increase under ORS 238.360, first effective for the month of December  
 41 1990, payable January 1, 1991, the monthly retirement allowance payable to or on account of any  
 42 person who has retired as a member of the Public Employees Retirement System shall be increased  
 43 by a percentage equal to the percentage calculated under ORS 238.380 (4), less any increase pro-  
 44 vided to the retired member under subsection [(6)] (1) of this section.

45 [(8)] (3) The increased allowance provided in subsections [(6) and (7)] (1) and (2) of this section

1 shall be funded by employer contributions.

2 **SECTION 70.** ORS 238.375 is amended to read:

3 238.375. (1) Notwithstanding any other provision of sections 3 to 10, chapter 569, Oregon Laws  
4 1995, the increased benefits payable under ORS 238.365 [(7)] **(2)** and 238.380, including all increased  
5 benefits payable to judge members by reason of the application of ORS 238.365 [(7)] **(2)** and 238.380  
6 to judge members, and under section 10, chapter 569, Oregon Laws 1995:

7 (a) Shall not be paid in any tax year in which retirement benefits that are payable under the  
8 Public Employees Retirement System and that are attributable to service rendered by the member  
9 before September 29, 1991, are wholly exempt from Oregon personal income taxation under Oregon  
10 law.

11 (b) Shall be reduced proportionately for any tax year in which retirement benefits that are  
12 payable under the Public Employees Retirement System and that are attributable to service ren-  
13 dered by the member before September 29, 1991, are partially exempt from Oregon personal income  
14 taxation under Oregon law.

15 (2) An overpayment of benefits that results from the operation of subsection (1) of this section  
16 is not recoverable from the recipient of the benefits, but the Public Employees Retirement Board  
17 shall ensure that no additional overpayments are made.

18 (3) No member of the system or beneficiary of a member of the system shall acquire a right,  
19 contractual or otherwise, to the increased benefits provided by sections 3 to 10, chapter 569, Oregon  
20 Laws 1995.

21 (4)(a) Notwithstanding any other provision of law, a class action may not be commenced on or  
22 after July 14, 1995, based on a claim for damages arising out of the subjecting of benefits paid under  
23 this chapter to Oregon personal income taxation by act of the Legislative Assembly.

24 (b) Notwithstanding any other provision of law, any court in which there is pending on May 30,  
25 1997, a class action that was commenced before July 14, 1995, based on a claim for damages arising  
26 out of the subjecting of benefits paid under this chapter to Oregon personal income taxation, may  
27 at any time after May 30, 1997, reopen that class action if by act of the Legislative Assembly there  
28 is a decrease in the benefit payable under ORS 238.365 [(7)] **(2)** or 238.380, or in the benefits payable  
29 to judge members by reason of the application of ORS 238.365 [(7)] **(2)** or 238.380 to judge members,  
30 or in the benefits payable to any member, judge member or beneficiary under section 10, chapter  
31 569, Oregon Laws 1995, without an equivalent decrease in the personal income tax imposed under  
32 Oregon law on benefits paid under the system that are attributable to service rendered before Sep-  
33 tember 29, 1991. Upon reopening the class action, the court may change the membership of the  
34 classes and may grant such further relief as may be warranted, including the entry of a judgment  
35 for damages or a judgment for supplemental relief under ORS 28.080.

36 **SECTION 71.** ORS 238.575 is amended to read:

37 238.575. (1) Every monthly retirement allowance or pension payable to a judge member or sur-  
38 viving spouse of a judge member under ORS 238.500 to 238.585 shall be adjusted annually to reflect  
39 the percentage increase or decrease in the cost of living as provided in ORS 238.360.

40 (2) ORS 238.365 [(4) to (8)] *apply in respect to a judge member who retired in the calendar year*  
41 *1984 or any calendar year thereafter as provided in ORS 238.365 (4) to (8)]* **applies to judge**  
42 **members**, and for that purpose the monthly retirement allowance referred to in ORS 238.365 [(4) to

43 (8)] shall be the monthly retirement allowance payable to a judge member or the monthly pension  
44 payable to the surviving spouse of a judge member under ORS 238.565 (3)(a).

45 **SECTION 72. The amendments to ORS 238.365 and 238.575 by sections 69 and 71 of this**

1 **2001 Act and the repeal of ORS 238.150 and 238.370 by section 73 of this 2001 Act do not affect**  
2 **any right accrued or obligation incurred under those statutes before the effective date of this**  
3 **2001 Act and do not affect any increase in retirement benefits made under the provisions of**  
4 **those laws before the effective date of this 2001 Act.**

5 **SECTION 73. ORS 238.150 and 238.370 are repealed.**

6  
7 **PRIOR SERVICE CREDIT**  
8

9 **SECTION 74. Section 75 of this 2001 Act is added to and made a part of ORS chapter 238.**

10 **SECTION 75. (1) Subject to the rules of the Public Employees Retirement Board, upon**  
11 **commencing participation in the system a public employer that is not a school district may**  
12 **elect to provide prior service credit for employees of the employer who are employees of the**  
13 **employer on the date on which the employer commences participation. Prior service credit**  
14 **may be provided only for employees who are members of the system. Prior service credit**  
15 **under this section may be provided for continuous service by the employee to the public**  
16 **employer before the public employer commenced participation in the system and for any**  
17 **accumulated seasonal employment by an employee before the public employer commenced**  
18 **participation in the system. The public employer and the board shall enter into an agreement**  
19 **that will specify the number of years of prior service credit that employees of the employer**  
20 **will receive. Prior service credit under this section shall be equal to \$4 for each year of prior**  
21 **service or major fraction of a year.**

22 **(2) If a public employer elects to provide prior service credit under this section, the board**  
23 **shall issue a certificate to each employee entitled to receive prior service credit. The certif-**  
24 **icate shall show the amount of prior service credit that the employee is entitled to receive**  
25 **under the agreement between the board and the public employer. The certificate shall be**  
26 **final unless the board, upon the motion of the member or upon the board's own motion,**  
27 **modifies the certificate for cause.**

28 **(3) Prior service credit under this section shall be funded by employer contributions in**  
29 **the manner provided by ORS 238.225.**

30 **SECTION 76. ORS 237.620 is amended to read:**

31 **237.620. (1) On or before July 1, 1973, all public employers of police officers and firefighters who**  
32 **are not participants in the Public Employees Retirement System shall become participants in the**  
33 **system with respect to the police officers and firefighters employed by them.**

34 **(2) All police officers and firefighters in the employ of the public employer on the date the public**  
35 **employer becomes a participant in the system under subsection (1) of this section shall establish**  
36 **membership under the six-month service requirement of ORS 238.015.**

37 **(3) The participation of the public employer in the system under this section shall apply to ser-**  
38 **vices of its employee police officers and firefighters on and after the effective date of the public**  
39 **employer's participation in the system. The public employer also shall provide a prior service pen-**  
40 **sion for its police officers and firefighters, within the limitations of ORS 238.225 (2) (1999 Edition),**  
41 **for continuous service to the public employer for a period not exceeding 20 years before the effec-**  
42 **tive date of the public employer's participation in the system.**

43 **(4) Notwithstanding subsections (1) and (2) of this section, if a public employer provides retire-**  
44 **ment benefits to its police officers and firefighters which are equal to or better than the benefits**  
45 **which would be provided to them under the system, as determined at the expense of the public em-**

1 ployer by the Public Employees Retirement Board, the public employer shall not be required to  
 2 participate in the system with respect to its police officers and firefighters. This exemption shall  
 3 continue to apply for only as long as the coverage remains substantially unchanged under ORS  
 4 chapter 238 but must be reexamined whenever substantial changes are made therein.

5 **SECTION 77.** Section 2, chapter 575, Oregon Laws 1995, is amended to read:

6 **Sec. 2.** (1) Notwithstanding section 3, **chapter 575, Oregon Laws 1995** [*of this 1995 Act*], or any  
 7 provision of ORS [*237.007 to 237.315*] **chapter 238**, a member of the Public Employees Retirement  
 8 System described in subsection (2) of this section whose position was transferred to the private,  
 9 not-for-profit corporation known as Oregon Public Broadcasting under the provisions of section 5,  
 10 chapter 208, Oregon Laws 1993, may receive imputed retirement credit in the manner provided by  
 11 this section for all continuous service performed for Oregon Public Broadcasting on and after July  
 12 1, 1995, and before July 1, 2005. In no event may a member acquire imputed retirement credit under  
 13 the provisions of this section if that acquisition would provide the member with more than a com-  
 14 bined total of 30 years of creditable service in the system and prior service credit [*under ORS*  
 15 *237.081*].

16 (2)(a) The provisions of this section apply only to members of the system who have a combined  
 17 total of 20 years or more of creditable service in the system and prior service credit [*under ORS*  
 18 *237.081*] on June 30, 1995.

19 (b) The provisions of this section apply only to continuous service by a member on or after July  
 20 1, 1995. If a member terminates service with Oregon Public Broadcasting, the member is not entitled  
 21 to any imputed retirement credit under the provisions of this section after that termination even if  
 22 the member is subsequently reemployed by Oregon Public Broadcasting.

23 (3) For purposes of computing benefits attributable to the imputed retirement credit provided  
 24 under the provisions of this section, the Public Employees Retirement Board shall use an imputed  
 25 salary for the member based on the salary paid to the member by Oregon Public Broadcasting dur-  
 26 ing the period for which retirement credit is received.

27 (4) Oregon Public Broadcasting shall pay to the Oregon Department of Administrative Services  
 28 on or before March 1 of each calendar year the actuarially determined present value of the benefits  
 29 determined by the board to be payable under the provisions of this section that are attributable to  
 30 service performed for Oregon Public Broadcasting in the previous calendar year. No imputed re-  
 31 tirement credit shall be provided by the board under the provisions of this section for service per-  
 32 formed in a calendar year if the payment required by this subsection is not made. Upon receipt of  
 33 the funds from Oregon Public Broadcasting under this subsection, the Oregon Department of Ad-  
 34 ministrative Services shall transfer the funds to the Public Employees Retirement Board pursuant  
 35 to the appropriation made under subsection (5) of this section.

36 (5) All funds payable to the Oregon Department of Administrative Services under subsection (4)  
 37 of this section are continuously appropriated to the Public Employees Retirement Board for the  
 38 purpose of paying the benefits to members that are attributable to the imputed retirement credit  
 39 authorized under the provisions of this section.

40 (6) Oregon Public Broadcasting may elect not to provide the imputed retirement credit provided  
 41 for in this section at any time after [*the effective date of this 1995 Act*] **July 14, 1995**. An election is  
 42 only effective for those years for which payment has not already been made under subsection (4) of  
 43 this section. The election must be in writing, and is irrevocable. Upon receipt of the election, the  
 44 board shall provide no further imputed retirement credit beyond that already funded under the  
 45 provisions of subsection (4) of this section.

1       **SECTION 78.** ORS 238.280 is amended to read:

2       238.280. (1) A police officer or firefighter who is a member of the system and attains the age of  
3 50 or any other employee who is a member of the system and attains the age of 55 shall be retired  
4 upon written application by the member to the board on a reduced service retirement allowance  
5 which shall be the actuarial equivalent of the service retirement allowance provided for in ORS  
6 238.300 at the normal retirement age.

7       (2) Notwithstanding subsection (1) of this section and ORS 238.215 (2)(b)(B):

8       (a) A police officer or firefighter who is a member of the system, attains the age of 50 and has  
9 a combined total of 25 years or more of creditable service in the system and prior service credit  
10 [*under ORS 238.225*] shall be retired upon written application by the member to the board on a  
11 service retirement allowance including, without actuarial reduction, the same current service pen-  
12 sion and prior service pension provided for in ORS 238.300 at the normal retirement age.

13       (b) An employee who is a member of the system, has a combined total of 30 years or more of  
14 creditable service in the system and prior service credit [*under ORS 238.225*], and is not eligible to  
15 retire under paragraph (a) of this subsection shall be retired upon written application by the member  
16 to the board on a service retirement allowance including, without actuarial reduction, the same  
17 current service pension and prior service pension provided for in ORS 238.300 at the normal re-  
18 tirement age.

19       **SECTION 79.** ORS 238.360 is amended to read:

20       238.360. (1) As soon as practicable after January 1 each year, the Public Employees Retirement  
21 Board shall determine the percentage increase or decrease in the cost of living for the previous  
22 calendar year, based on the Consumer Price Index (Portland area-all items) as published by the  
23 Bureau of Labor Statistics of the U.S. Department of Labor for the Portland, Oregon area. Prior to  
24 July 1 each year the allowance which the member or the member's beneficiary is receiving or is  
25 entitled to receive on August 1 for the month of July shall be multiplied by the percentage figure  
26 determined, and the allowance for the next 12 months beginning July 1 adjusted to the resultant  
27 amount.

28       (2) Such increase or decrease shall not exceed two percent of any monthly retirement allowance  
29 in any year and no allowance shall be adjusted to an amount less than the amount to which the  
30 recipient would be entitled if no cost of living adjustment were authorized.

31       (3) The amount of any cost of living increase or decrease in any year in excess of the maximum  
32 annual retirement allowance adjustment of two percent shall be accumulated from year to year and  
33 included in the computation of increases or decreases in succeeding years.

34       (4) Any increase in the allowance shall be paid from [*current service*] contributions of the public  
35 employer under ORS 238.225. Any decrease in the allowance shall be returned to the employer in  
36 the form of a credit against [*current service*] contributions of the employer under ORS 238.225.

37       **SECTION 80.** ORS 238.415 is amended to read:

38       238.415. (1)(a) As used in this section, "eligible retired state employee" means:

39       (A) A retired member of the Public Employees Retirement System who was a state employee at  
40 the time of retirement, is retired for service or disability, is receiving a retirement allowance or  
41 benefit under the system, had eight years or more of qualifying service in the system at the time  
42 of retirement or is receiving a disability retirement allowance including a pension computed as if  
43 the member had eight years or more of creditable service in the system at the time of retirement,  
44 and has attained earliest service retirement age but is not eligible for federal Medicare coverage;  
45 or

1 (B) A person who is a surviving spouse or dependent of a deceased eligible retired state em-  
2 ployee as provided in subparagraph (A) of this paragraph at the time of death, who:

3 (i) Is receiving a retirement allowance or benefit under the system; or

4 (ii) Was covered at the time of the eligible retired state employee's death by the retired em-  
5 ployee's health insurance contracted for under ORS 238.410, and the employee retired on or after  
6 September 29, 1991.

7 (b) For purposes of this section, "qualifying service" means creditable service in the system and  
8 any periods of employment with an employer participating in the system required of the employee  
9 before becoming a member of the system.

10 (2) Of the monthly cost of coverage for an eligible retired state employee under a health care  
11 insurance contract entered into under ORS 238.410, an amount as determined under subsection (3)  
12 of this section shall be paid from the Retiree Health Insurance Premium Account established by  
13 subsection (4) of this section, and any monthly cost in excess of the amount so determined shall be  
14 paid by the eligible retired state employee in the manner provided in ORS 238.410 (4). Any amount  
15 paid under this subsection shall be exempt from all state, county and municipal taxes imposed on  
16 the eligible retired member.

17 (3) On or before January 1 of each year, the Public Employees Retirement Board shall calculate  
18 the average difference between the health insurance premiums paid by retired state employees under  
19 contracts entered into by the board under ORS 238.410 and the health insurance premiums paid by  
20 state employees who are not retired under contracts entered into by the Public Employees' Benefit  
21 Board. For the purposes of subsection (2) of this section, an eligible retired state employee shall be  
22 entitled to receive toward the monthly cost of coverage under a health insurance contract entered  
23 into under ORS 238.410:

24 (a) For an eligible retired state employee with eight years or more of qualifying service in the  
25 system, but less than 10 years of qualifying service in the system, 50 percent of the amount calcu-  
26 lated by the board under this subsection.

27 (b) For an eligible retired state employee with 10 years or more of qualifying service in the  
28 system, but less than 15 years of qualifying service in the system, 60 percent of the amount calcu-  
29 lated by the board under this subsection.

30 (c) For an eligible retired state employee with 15 years or more of qualifying service in the  
31 system, but less than 20 years of qualifying service in the system, 70 percent of the amount calcu-  
32 lated by the board under this subsection.

33 (d) For an eligible retired state employee with 20 years or more of qualifying service in the  
34 system, but less than 25 years of qualifying service in the system, 80 percent of the amount calcu-  
35 lated by the board under this subsection.

36 (e) For an eligible retired state employee with 25 years or more of qualifying service in the  
37 system, but less than 30 years of qualifying service in the system, 90 percent of the amount calcu-  
38 lated by the board under this subsection.

39 (f) For an eligible retired state employee with 30 years or more of qualifying service in the  
40 system, 100 percent of the amount calculated by the board under this subsection.

41 (4) The Retiree Health Insurance Premium Account is established within the Public Employees  
42 Retirement Fund, separate and distinct from the General Fund. Interest earned by the account shall  
43 be credited to the account. All moneys in the account are continuously appropriated to the Public  
44 Employees Retirement Board and may be used only to pay costs of health care insurance contract  
45 coverage under subsection (2) of this section, paying the administrative costs incurred by the board

1 under this section and investment of moneys in the account under any law of this state specifically  
2 authorizing that investment.

3 (5) The Retiree Health Insurance Premium Account shall be funded by employer contributions.  
4 The state shall transmit to the board **those** amounts [as] the board determines to be actuarially  
5 necessary to fund the liabilities of the account. The level of employer contributions shall be estab-  
6 lished by the board using the same actuarial assumptions it uses to determine employer contribution  
7 rates to the Public Employees Retirement Fund. The amounts shall be transmitted at the same time  
8 and in the same manner as contributions for pension benefits are transmitted under ORS 238.225  
9 [(1)].

10 (6) The Public Employees Retirement Board shall, by rule, establish a procedure for calculating  
11 the average difference between the health insurance premiums paid by retired state employees under  
12 contracts entered into by the board under ORS 238.410 and the health insurance premiums paid by  
13 state employees who are not retired under contracts entered into by the Public Employees' Benefit  
14 Board.

15 (7) As provided in section 401(h)(5) of the Internal Revenue Code of 1986, upon satisfaction of  
16 all liabilities for providing benefits described in subsection (2) of this section, any amount remaining  
17 in the Retiree Health Insurance Premium Account shall be returned to the state.

18 (8) No member of the system shall have an interest in the Retiree Health Insurance Premium  
19 Account or in the benefits provided under this section.

20 (9) For the purposes of this section:

21 (a) "Board" means the Public Employees Retirement Board.

22 (b) "System" means the Public Employees Retirement System.

23 **SECTION 81.** ORS 238.685 is amended to read:

24 238.685. (1) The school district, which is or expects to become a party to a contract of inte-  
25 gration described in ORS 238.680 (3), may provide for payment of all or any part of its unfunded  
26 obligation for [*prior*] **previous** service costs with respect to the association by any one or a combi-  
27 nation of the following methods:

28 (a) By agreeing to pay such portion of the obligation to the Public Employees Retirement System  
29 over a period of not to exceed [30] **40** years, together with an appropriate rate of interest as deter-  
30 mined by the Public Employees Retirement Board and the board of directors of the school district.

31 (b) By issuing one or more series of general obligation bonds for the estimated amount of such  
32 portion of the obligation and paying it from the proceeds or interest thereon. Except as provided in  
33 subsection (2) of this section, the initial authorization for the original issue of such bonds shall re-  
34 quire approval of the electors of the district and shall otherwise conform to all requirements of law  
35 governing the issuance, sale, redemption, refunding and refinancing of bonds by the school district,  
36 the retention, segregation and use of bond proceeds and the levy of taxes for their payment.

37 (c) By issuing other notes, contracts or evidences of indebtedness for the estimated amount of  
38 such portion of the obligation and paying it therewith or from the proceeds or interest thereon. The  
39 interest rate on such notes, contracts or evidences of indebtedness shall be such as the board of  
40 directors of the school district finds is reasonably competitive with interest rates on bonds which  
41 could be issued pursuant to paragraph (b) of this subsection.

42 (d) By contracting with an insurance company authorized to write annuity contracts in this  
43 state to assume and pay the pensions of retired, active or former members of the association.

44 (2) Such agreement, bonds, notes, contracts or evidences of indebtedness, or any part of them,  
45 may be issued or entered into without an election, but in such case:



1 (a) To the extent the principal and interest on such agreement, bonds, notes, contracts or evi-  
2 dences of indebtedness are paid from operating taxes within the district's permanent tax rate limit,  
3 the school district shall each year divide its operating taxes into two portions, both within the dis-  
4 trict's permanent tax rate limit, and one of such portions shall be the amount used to pay the  
5 principal and interest on such agreement, bonds, notes, contracts or evidences of indebtedness for  
6 such year and the proceeds of such portion shall not be used for other purposes; and

7 (b) To the extent the principal and interest on such agreement, bonds, notes, contracts or evi-  
8 dences of indebtedness are paid from revenues other than operating tax proceeds, the school district  
9 need not divide its levy as provided in paragraph (a) of this subsection and the principal and interest  
10 may be paid out of such other revenues.

11 (3) Part or all of the agreement, bonds, notes, contracts or evidences of indebtedness authorized  
12 by this section may be issued prior to or after the execution of the contract of integration. The  
13 validity or enforceability thereof shall not be affected by the terms of the contract of integration  
14 or by whether operating taxes are properly apportioned as provided in subsection (2)(a) of this sec-  
15 tion.

16  
17 **CHANGE OF BENEFICIARY AFTER DIVORCE**

18  
19 **SECTION 82.** ORS 238.465 is amended to read:

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

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

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

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

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

39 (b) That the alternate payee may elect to receive payment in any form of pension, annuity, re-  
40 tirement allowance, disability benefit, death benefit, refund benefit or other benefit, except a benefit  
41 in the form of a joint and survivor annuity, that would be available to the member under this  
42 chapter, or that would be available to the member if the member retired or separated from service  
43 at the time of election by the alternate payee, without regard to the form of benefit elected by the  
44 member.

45 (c) That the alternate payee's life is the measuring life for the purpose of measuring payments

1 to the alternate payee under the form of benefit selected by the alternate payee and for the purpose  
2 of determining necessary employer reserves.

3 **(d) Except as provided in ORS 238.305 (9) and 238.325 (7), that any person designated by**  
4 **the member as a beneficiary under ORS 238.300, 238.305 or 238.325 be changed, even though**  
5 **the member has retired and has begun receiving a retirement allowance. If a change of**  
6 **beneficiary is ordered under this paragraph, the board shall adjust the anticipated benefits**  
7 **that would be payable to the member and the beneficiary to ensure that the cost to the**  
8 **system of providing benefits to the member and the new beneficiary does not exceed the cost**  
9 **that the system would have incurred to provide benefits to the member and the original**  
10 **beneficiary. The decree, order or settlement may not provide for any change to the option**  
11 **selected by the retired member under ORS 238.300, 238.305, 238.320 or 238.325 as to the form**  
12 **of the retirement benefit.**

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

14 (a) The creation of a separate account in the name of the alternate payee reflecting the decree's,  
15 order's or agreement's distribution of the member's benefits under this chapter;

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

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

19 (4) If a decree, order or agreement awards an interest to an alternate payee, and if the alternate  
20 payee predeceases the member before the alternate payee has commenced receiving benefits, the  
21 alternate payee shall be considered a member of the system who died before retiring for the pur-  
22 poses of the death benefits provided in ORS 238.390 and 238.395, but for purposes of the death ben-  
23 efits provided in ORS 238.395, the alternate payee shall be considered a member of the system who  
24 died before retiring only if the member would have been eligible for death benefits under ORS  
25 238.395 had the member died at the same time as the alternate payee. Payment of the death benefits  
26 to the beneficiaries, estate or other persons entitled to receive the benefits under ORS 238.390 and  
27 238.395 shall constitute payment in full of the alternate payee's interest under the decree, order or  
28 agreement.

29 (5) Any increase in the retirement allowance provided to the member shall increase the amounts  
30 paid to the spouse or former spouse of the member in the same proportion, except that an alternate  
31 payee is not entitled to receive cost of living adjustments under ORS 238.360 or any other retirement  
32 allowance increase until benefits are first paid from the system on behalf of the member.

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

35 (7) An alternate payee who elects to begin receiving payments under subsection (1) of this sec-  
36 tion before the member's effective date of retirement is not eligible to receive any additional pay-  
37 ment by reason of credit in the system acquired by the member after the alternate payee begins to  
38 receive payments.

39 (8) Subsection (1) of this section applies only to payments made by the board after the date of  
40 receipt by the board of written notice of the decree, order or agreement and such additional infor-  
41 mation and documentation as the board may prescribe.

42 (9) Whenever the board is required to make payment to an alternate payee under the provisions  
43 of this section, the board shall charge and collect out of the benefits payable to the member and the  
44 alternate payee actual and reasonable administrative expenses and related costs incurred by the  
45 board in obtaining data and making calculations that are necessary by reason of the provisions of

1 this section. The board may not charge more than \$300 for total administrative expenses and related  
2 costs incurred in obtaining data or making calculations that are necessary by reason of the pro-  
3 visions of this section. The board shall allocate expenses and costs charged under the provisions of  
4 this subsection between the member and the alternate payee based on the fraction of the benefit  
5 received by the member or alternate payee.

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

8 **SECTION 83.** The amendments to ORS 238.465 by section 82 of this 2001 Act apply only  
9 to decrees, orders or settlements entered on or after the effective date of this 2001 Act. Any  
10 decree, order or settlement entered on or after the effective date of this 2001 Act may pro-  
11 vide for a change of beneficiary under ORS 238.465, as amended by section 82 of this 2001 Act,  
12 without regard to whether the member of the Public Employees Retirement System retired  
13 before, on or after the effective date of this 2001 Act.

14  
15 **LUMP SUM PAYMENT IN LIEU OF MONTHLY PAYMENTS**

16  
17 **SECTION 84.** ORS 238.315 is amended to read:

18 238.315. A member of the system who has separated from the service of all participating em-  
19 ployers, who retires for service and whose total service retirement allowance on the effective date  
20 of retirement, as computed by the board in accordance with the nonrefund plan, is less than [~~\$30~~  
21 **\$200**] per month, shall receive, in lieu of any and all retirement allowance or other benefits under  
22 the system, a retirement benefit in the form of a lump sum amount equal to the actuarial value, on  
23 the effective date of retirement, of the retirement allowance computed by the board in accordance  
24 with the nonrefund plan. A member who receives a retirement benefit as provided in this section is  
25 eligible to participate in insurance coverage under ORS 238.410, and the board shall determine the  
26 manner in which the cost of that coverage payable by the member shall be paid.

27 **SECTION 85.** ORS 238.310 is amended to read:

28 238.310. (1) Notwithstanding any other provision of this chapter, the service retirement  
29 allowance[, *including any increase pursuant to ORS 238.370,*] of a member who has 15 or more years  
30 of creditable service[,] shall be not less than \$100 a month, computed under the nonrefund plan:

31 [(1)] (a) For a member who retires and begins receiving a service retirement allowance before  
32 or on reaching the age of 65 years, on the basis of retirement at the age of 65 years.

33 [(2)] (b) For a member who retires and begins receiving a service retirement allowance after  
34 reaching the age of 65 years, on the basis of age reached at retirement.

35 (2) Any member who receives a service retirement allowance calculated under the pro-  
36 visions of this section shall receive the retirement benefit in the form of a lump sum amount  
37 as provided in ORS 238.315.

38 **SECTION 86.** The amendments to ORS 238.310 and 238.315 by sections 84 and 85 of this  
39 2001 Act apply only to members of the Public Employees Retirement System whose effective  
40 date of retirement is on or after the effective date of this 2001 Act.

41  
42 **CONFORMING AMENDMENTS**

43  
44 **SECTION 87.** Section 10, chapter 569, Oregon Laws 1995, as amended by section 7, chapter 175,  
45 Oregon Laws 1997, is amended to read:

1       **Sec. 10.** (1)(a) On or before January 1, 1996, or as soon as possible thereafter, the Public Em-  
2       ployees Retirement Board shall recalculate the benefits payable to a member of the Public Employ-  
3       ees Retirement System, or to the beneficiary of that member, under the provisions of ORS 238.380  
4       if the member retired or died on or after January 1, 1991, and before the date on which the first  
5       payment is made under the provisions of this subsection. If the member or beneficiary of a member  
6       is entitled to receive an increase in a retirement allowance or other monthly payment, the board  
7       shall begin paying that increase in all monthly payments made after the recalculation required by  
8       this subsection is completed. The increased amount payable under this section shall be calculated  
9       as though ORS 238.380 had been in effect from January 1, 1991, and shall include all increases that  
10      would have accrued under ORS 238.360 if ORS 238.380 had been in effect from January 1, 1991.

11      (b) On or before January 1, 1996, or as soon as possible thereafter, the Public Employees Re-  
12      tirement Board shall recalculate the benefits payable to a retired member of the Public Employees  
13      Retirement System who retired or died before January 1, 1991, or to the beneficiary of that member,  
14      as required by the amendments to ORS 238.365, 238.575 and 238.580 and section 14, chapter 796,  
15      Oregon Laws 1991, by sections 5, 6, 7 and 8, chapter 569, Oregon Laws 1995. The recalculated re-  
16      tirement allowance or other monthly payment shall include all increases that would have accrued  
17      under ORS 238.360 if the increased benefits required by the amendments to ORS 238.365, 238.575 and  
18      238.580 and section 14, chapter 796, Oregon Laws 1991, by sections 5, 6, 7 and 8, chapter 569, Oregon  
19      Laws 1995, had been in effect from January 1, 1991.

20      (2)(a) If the effective date of retirement or death of a member is on or after January 1, 1991, and  
21      the member or a beneficiary of a member is entitled to an increase under ORS 238.380 for any month  
22      or payment before the date on which the first increased monthly payment is made under subsection  
23      (1) of this section, the board shall calculate the increase owing for all months and payments made  
24      before the date on which the first increased payment is made under subsection (1) of this section,  
25      and shall mail a check payable to the member or beneficiary of the member for the additional  
26      amount as soon as possible after [*the effective date of this 1997 Act*] **May 30, 1997**.

27      (b) If a member withdrew the amount credited to the employee's account in the fund under the  
28      provisions of ORS 238.265, or the account of the member was returned to the employee after the  
29      membership of the employee was terminated under the provisions of ORS 238.095, and the with-  
30      drawal or termination occurred on or after January 1, 1991, and before [*the effective date of this 1997*  
31      *Act*] **May 30, 1997**, the board shall calculate an additional amount equal to the amount that would  
32      have been paid to the member had ORS 238.380 (3)(b) been in effect on the date of the withdrawal  
33      or termination, and shall mail a check payable to the member or beneficiary of the member for the  
34      additional amount as soon as possible after [*the effective date of this 1997 Act*] **May 30, 1997**. No  
35      additional payment shall be made under the provisions of this paragraph if the amount withdrawn  
36      by the member is repaid under the provisions of ORS 238.105 before [*the effective date of this 1997*  
37      *Act*] **May 30, 1997**.

38      (c) Any additional amounts paid to a member or beneficiary of a member under the provisions  
39      of this subsection must be reduced by the amount of any benefit paid to the member or beneficiary  
40      of a member under the provisions of chapter 796, Oregon Laws 1991.

41      (3)(a) As soon as possible after [*the effective date of this 1997 Act*] **May 30, 1997**, the board shall  
42      calculate the additional amount that a member of the Public Employees Retirement System who re-  
43      tired or died before January 1, 1991, or the beneficiary of that member, is entitled to receive by  
44      reason of the amendments to ORS 238.365, 238.575 and 238.580 and section 14, chapter 796, Oregon  
45      Laws 1991, by sections 5, 6, 7 and 8, chapter 569, Oregon Laws 1995. The board shall mail checks

1 in payment of the additional amounts calculated under this section as soon as possible after [*the*  
2 *effective date of this 1997 Act*] **May 30, 1997.**

3 (b) Any additional amounts paid to a member or beneficiary of a member under the provisions  
4 of this subsection must be reduced by the amount of any benefit paid to the member or beneficiary  
5 of a member under the provisions of chapter 796, Oregon Laws 1991.

6 (4) In addition to the amounts payable to a member or a beneficiary of a member under sub-  
7 sections (2) and (3) of this section, the board shall calculate and pay to the member or beneficiary  
8 of the member any additional amounts that would have been paid to the member or beneficiary of  
9 the member under the provisions of ORS 238.360 if the additional payments provided for in sub-  
10 sections (2) and (3) of this section had been made as though ORS 238.380 and the amendments to  
11 ORS 238.365, 238.575 and 238.580 and section 14, chapter 796, Oregon Laws 1991, by sections 5, 6,  
12 7 and 8, chapter 569, Oregon Laws 1995, had been in effect on January 1, 1991, and thereafter.

13 (5) In addition to the amounts calculated under subsections (2), (3) and (4) of this section, the  
14 board shall calculate and pay interest on all amounts payable under subsections (2), (3) and (4) of  
15 this section at the rate of nine percent per annum, beginning from the date the payments would have  
16 been made if ORS 238.380 and the amendments to ORS 238.365, 238.575 and 238.580 and section 14,  
17 chapter 796, Oregon Laws 1991, by sections 5, 6, 7 and 8, chapter 569, Oregon Laws 1995, had been  
18 in effect on January 1, 1991, and thereafter, and ending with the date on which the checks required  
19 by this section are mailed. If the member or beneficiary is deceased, interest shall cease to accrue  
20 on the date a check is issued to the person entitled to the payment under the law, or 90 days after  
21 [*the effective date of this 1997 Act*] **May 30, 1997**, whichever is first. No additional interest for periods  
22 of time after the date that the check is mailed shall be calculated or paid if a subsequent check is  
23 issued for any returned or uncashed check. Interest under this subsection is simple interest.

24 (6) For the purposes of chapter 569, Oregon Laws 1995, any judge who retires or dies after Au-  
25 gust 1, 1991, and whose retirement pay or pension would have been paid from the Judges' Retire-  
26 ment Fund except for the provisions of chapter 815, Oregon Laws 1991, shall be considered to have  
27 received an increase in the benefits payable to the judge or surviving spouse of the judge under the  
28 provisions of ORS 238.385, and shall not be considered to have received an increase in benefits un-  
29 der the provisions of section 7, chapter 796, Oregon Laws 1991, or section 26, chapter 815, Oregon  
30 Laws 1991. The benefit being paid to the judge or the surviving spouse of the judge shall be recal-  
31 culated in the same manner as provided in this section for the retirement allowances of other  
32 members of the system.

33 (7)(a) The amounts payable to a member or a beneficiary of a member under subsections (2) and  
34 (3) of this section shall be calculated based on the benefit payments actually made to the member  
35 before the date on which the payment is made under subsection (2) or (3) of this section, and shall  
36 not be calculated based on the amount of the benefits that were payable or owing to the member  
37 at any given time.

38 (b) For the purpose of calculating the amounts payable to a member or a beneficiary of a mem-  
39 ber under subsections (2) and (3) of this section, the board shall reduce any benefit payment that  
40 entitled a member or a beneficiary to an increase under chapter 796, Oregon Laws 1991, by an  
41 amount calculated by dividing the payment amount by a factor calculated by adding one and the  
42 decimal that represents the percentage increase applicable to the member or beneficiary under the  
43 provisions of chapter 796, Oregon Laws 1991. The increased benefits provided for in subsections (2)  
44 and (3) of this section shall be based on the amount calculated under this paragraph. The recal-  
45 culation provided for in this paragraph does not apply to:

1 (A) Any benefit payment that entitled a member or a beneficiary of a member to an increase  
2 under chapter 796, Oregon Laws 1991, but that did not include the increase required by those laws  
3 at the time the payment was made; or

4 (B) A payment made before [*the effective date of this 1997 Act*] **May 30, 1997**, as a retroactive  
5 adjustment of a retirement allowance that was required by reason of an error in calculating the  
6 value of the annuity portion of the retirement allowance under the provisions of chapter 761, Oregon  
7 Laws 1981.

8 (c) Notwithstanding ORS 238.380 (1)(c), the amounts payable to a member or a beneficiary of a  
9 member under subsections (2) and (3) of this section shall be calculated based on the full payment  
10 made to the member or beneficiary, including all interest paid on amounts that were paid as retro-  
11 active corrections or adjustments of the amount payable to the member or beneficiary.

12 (d) No increase shall be paid under subsection (2) or (3) of this section for:

13 (A) Any amount that has been determined to be an overpayment or improperly made payment;  
14 or

15 (B) A payment made under the provisions of section 13, chapter 796, Oregon Laws 1991.

16 (8) The increased benefits and interest required by this section shall be funded by employer  
17 contributions. Notwithstanding ORS 238.225, participating public employers shall transmit to the  
18 board those amounts actuarially computed to be necessary to amortize within not more than [30]  
19 **40** years all liabilities estimated by the actuary to accrue to the system by reason of the increased  
20 benefits and interest required to be paid under this section.

21 (9) If a member or a beneficiary of a member dies on or after January 1, 1991, but before pay-  
22 ments are made under the provisions of this section, and the member or beneficiary would have been  
23 entitled to receive a payment under the provisions of this section, the payment required by this  
24 section, including all interest, shall be made as follows:

25 (a) The payment shall be made by the board to the estate of the decedent if probate proceedings  
26 are pending.

27 (b) If a small estate affidavit has been filed under ORS 114.505 to 114.560, the board shall make  
28 payment to the person who filed the affidavit.

29 (c) If payment cannot be made under paragraph (a) or (b) of this subsection, the board shall take  
30 all reasonable steps necessary to locate the decedent's surviving next of kin. If surviving next of  
31 kin can be located by the board, the board shall give written notice to the surviving next of kin that  
32 the board is holding the payment for the person entitled to the payment under the law. The board  
33 shall issue a new check at any time thereafter that the decedent's surviving next of kin or any other  
34 person establishes a legal right to the payment.

35 **SECTION 88.** ORS 238.420 is amended to read:

36 238.420. (1) As used in this section, "eligible retired member" means:

37 (a) A retired member of the Public Employees Retirement System who is retired for service or  
38 disability, is receiving a retirement allowance or benefit under the system, had eight years or more  
39 of qualifying service in the system at the time of retirement or is receiving a disability retirement  
40 allowance including a pension computed as if the member had eight years or more of creditable  
41 service in the system at the time of retirement, and is eligible for federal Medicare coverage; or

42 (b) A person who is a surviving spouse or dependent of a deceased eligible retired member as  
43 provided in paragraph (a) of this subsection at the time of death, who is eligible for federal Medicare  
44 coverage and who:

45 (A) Is receiving a retirement allowance or benefit under the system; or

1 (B) Was covered at the time of the retired member's death by the retired member's health in-  
2 surance contracted for under ORS 238.410, and the member retired before May 1, 1991.

3 (2) For purposes of subsection (1)(a) of this section, "qualifying service" means creditable service  
4 in the system and any periods of employment with an employer participating in the system required  
5 of the employee before becoming a member of the system.

6 (3) Of the monthly cost of coverage for an eligible retired member under a health care insurance  
7 contract that provides coverage supplemental to federal Medicare coverage entered into under ORS  
8 238.410, an amount equal to \$60 or the total monthly cost of that coverage, whichever is less, shall  
9 be paid from the Retirement Health Insurance Account established by subsection (4) of this section,  
10 and any monthly cost in excess of \$60 shall be paid by the eligible retired member in the manner  
11 provided in ORS 238.410 (4). Any amount paid under this subsection shall be exempt from all state,  
12 county and municipal taxes imposed on the eligible retired member.

13 (4) The Retirement Health Insurance Account is established within the Public Employees Re-  
14 tirement Fund, separate and distinct from the General Fund. Interest earned by the account shall  
15 be credited to the account. All moneys in the account are continuously appropriated to the Public  
16 Employees Retirement Board and may be used only to pay costs of health care insurance contract  
17 coverage under subsection (3) of this section, paying the administrative costs incurred by the board  
18 under this section and investment of moneys in the account under any law of this state specifically  
19 authorizing that investment.

20 (5) The Retirement Health Insurance Account shall be funded by employer contributions. Each  
21 public employer that is a member of the system shall transmit to the board such amounts as the  
22 board determines to be actuarially necessary to fund the liabilities of the account. The level of em-  
23 ployer contributions shall be established by the board using the same actuarial assumptions it uses  
24 to determine employer contribution rates to the Public Employees Retirement Fund. The amounts  
25 shall be transmitted at the same time and in the same manner as contributions for pension benefits  
26 are transmitted under ORS 238.225 [(1)].

27 (6) As provided in section 401(h)(5) of the Internal Revenue Code of 1986, upon satisfaction of  
28 all liabilities for providing benefits described in subsection (1) of this section, any amount remaining  
29 in the Retirement Health Insurance Account shall be returned to the employers participating in the  
30 retirement system on an equitable basis as determined by the board.

31 (7) No member of the system shall have an interest in the Retirement Health Insurance Account.

32 **SECTION 89.** ORS 238.465, as amended by section 82 of this 2001 Act, is amended to read:

33 238.465. (1) Notwithstanding ORS 238.445 or any other provision of law, payments under this  
34 chapter of any pension, annuity, retirement allowance, disability benefit, death benefit, refund ben-  
35 efit or other benefit that would otherwise be made to a person entitled thereto under this chapter  
36 shall be paid, in whole or in part, by the Public Employees Retirement Board to an alternate payee  
37 if and to the extent expressly provided for in the terms of any court decree of annulment or dissol-  
38 ution of marriage or of separation, or the terms of any court order or court-approved property  
39 settlement agreement incident to any court decree of annulment or dissolution of marriage or of  
40 separation. Notwithstanding any other provisions of this section, the total value of benefits payable  
41 to a member and to an alternate payee under this section may not be greater than the value of the  
42 benefits the member would otherwise be eligible to receive. Any payment under this subsection to  
43 an alternate payee bars recovery by any other person.

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

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

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

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

7 (b) That the alternate payee may elect to receive payment in any form of pension, annuity, re-  
8 tirement allowance, disability benefit, death benefit, refund benefit or other benefit, except a benefit  
9 in the form of a joint and survivor annuity, that would be available to the member under this  
10 chapter, or that would be available to the member if the member retired or separated from service  
11 at the time of election by the alternate payee, without regard to the form of benefit elected by the  
12 member.

13 (c) That the alternate payee's life is the measuring life for the purpose of measuring payments  
14 to the alternate payee under the form of benefit selected by the alternate payee and for the purpose  
15 of determining necessary employer reserves.

16 (d) Except as provided in ORS 238.305 [(9)] (10) and 238.325 (7), that any person designated by  
17 the member as a beneficiary under ORS 238.300, 238.305 or 238.325 be changed, even though the  
18 member has retired and has begun receiving a retirement allowance. If a change of beneficiary is  
19 ordered under this paragraph, the board shall adjust the anticipated benefits that would be payable  
20 to the member and the beneficiary to ensure that the cost to the system of providing benefits to the  
21 member and the new beneficiary does not exceed the cost that the system would have incurred to  
22 provide benefits to the member and the original beneficiary. The decree, order or settlement may  
23 not provide for any change to the option selected by the retired member under ORS 238.300, 238.305,  
24 238.320 or 238.325 as to the form of the retirement benefit.

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

26 (a) The creation of a separate account in the name of the alternate payee reflecting the decree's,  
27 order's or agreement's distribution of the member's benefits under this chapter;

28 (b) The establishing of criteria to determine whether domestic relations decrees, orders and  
29 agreements comply with this section; and

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

31 (4) If a decree, order or agreement awards an interest to an alternate payee, and if the alternate  
32 payee predeceases the member before the alternate payee has commenced receiving benefits, the  
33 alternate payee shall be considered a member of the system who died before retiring for the pur-  
34 poses of the death benefits provided in ORS 238.390 and 238.395, but for purposes of the death ben-  
35 efits provided in ORS 238.395, the alternate payee shall be considered a member of the system who  
36 died before retiring only if the member would have been eligible for death benefits under ORS  
37 238.395 had the member died at the same time as the alternate payee. Payment of the death benefits  
38 to the beneficiaries, estate or other persons entitled to receive the benefits under ORS 238.390 and  
39 238.395 shall constitute payment in full of the alternate payee's interest under the decree, order or  
40 agreement.

41 (5) Any increase in the retirement allowance provided to the member shall increase the amounts  
42 paid to the spouse or former spouse of the member in the same proportion, except that an alternate  
43 payee is not entitled to receive cost of living adjustments under ORS 238.360 or any other retirement  
44 allowance increase until benefits are first paid from the system on behalf of the member.

45 (6) An alternate payee under this section is not eligible to receive the benefits provided under



1 ORS 238.410, 238.415, 238.420 and 238.440 by reason of the provisions of this section.

2 (7) An alternate payee who elects to begin receiving payments under subsection (1) of this sec-  
3 tion before the member's effective date of retirement is not eligible to receive any additional pay-  
4 ment by reason of credit in the system acquired by the member after the alternate payee begins to  
5 receive payments.

6 (8) Subsection (1) of this section applies only to payments made by the board after the date of  
7 receipt by the board of written notice of the decree, order or agreement and such additional infor-  
8 mation and documentation as the board may prescribe.

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

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

20 **SECTION 90. The amendments to ORS 238.465 by section 89 of this 2001 Act become op-**  
21 **erative on January 1, 2003.**

22  
23 **UNIT CAPTIONS**

24  
25 **SECTION 91. The unit captions used in this 2001 Act are provided only for the conven-**  
26 **ience of the reader and do not become part of the statutory law of this state or express any**  
27 **legislative intent in the enactment of this 2001 Act.**

28  
29 **EMERGENCY CLAUSE**

30  
31 **SECTION 92. This 2001 Act being necessary for the immediate preservation of the public**  
32 **peace, health and safety, an emergency is declared to exist, and this 2001 Act takes effect**  
33 **on its passage.**