

CHAPTER 355

AN ACT

SB 1049

Relating to public employee retirement; creating new provisions; amending ORS 238.005, 238.105, 238.115, 238.265, 238.300, 238.305, 238.320, 238.325, 238.395, 238.580, 238.694, 238.695, 238.698, 238A.005, 238A.110, 238A.120, 238A.320, 238A.330, 238A.335, 238A.375, 238A.410, 243.800, 341.551 and 461.010 and sections 1, 2, 3, 3b, 13, 15, 24, 26 and 29, chapter 105, Oregon Laws 2018, and sections 2 and 3, chapter 118, Oregon Laws 2018; repealing section 4, chapter 118, Oregon Laws 2018; and declaring an emergency.

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

EMPLOYEE CONTRIBUTIONS

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

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

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

(a) **Except as provided in paragraph (c) of this subsection, for a member who established membership in the Public Employees Retirement System before August 29, 2003, as described in ORS 238A.025:**

(A) If the member's salary does not exceed \$2,500 in a calendar month, the board shall credit all employee contributions made by the member under this section to the employee account established for the member under ORS 238A.350 (2).

(B) If the member's salary exceeds \$2,500 in a calendar month, the board shall credit:

(i) 3.5 percent of the member's salary to the employee account established for the member under ORS 238A.350 (2); and

(ii) 2.5 percent of the member's salary to the employee pension stability account established for the member under section 3 of this 2019 Act.

(b) **Except as provided in paragraph (c) of this subsection, for a member who established membership in the system on or after August 29, 2003, as described in ORS 238A.025:**

(A) If the member's salary does not exceed \$2,500 in a calendar month, the board shall credit all employee contributions made by the member under this section to the employee account established for the member under ORS 238A.350 (2).

(B) If the member's salary exceeds \$2,500 in a calendar month, the board shall credit:

(i) 5.25 percent of the member's salary to the employee account established for the member under ORS 238A.350 (2); and

(ii) 0.75 percent of the member's salary to the employee pension stability account established for the member under section 3 of this 2019 Act.

(c) During a biennium following a rate setting valuation prepared by the actuary under ORS 238.605 that shows that the funded status of the system, including any lump sum payments made under ORS 238.229, is 90 percent or greater, the board shall credit all employee contributions made by a member of the individual account program to the employee account established for the member under ORS 238A.350 (2).

(3) If any contributions made by a member of the individual account program are credited to the employee pension stability account under subsection (2) of this section, the member may make additional employee contributions to the individual account program in the amount credited to the employee pension stability account. The board shall credit employee contributions made under this subsection to the employee account established for the member under ORS 238A.350 (2). Contributions under this subsection may not be paid by the employer under ORS 238A.335.

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

(5) On January 1 of each year, the board shall adjust the dollar amounts provided in subsection (2) of this section to reflect any percentage increase in the cost of living for the previous calendar year, based on changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

SECTION 2. Section 3 of this 2019 Act is added to and made a part of ORS chapter 238A.

SECTION 3. Employee pension stability accounts established. (1) The Public Employees Retirement Board shall establish an employee pension stability account for each active member of the Public Employees Retirement System.

(2) Each account established under this section shall be adjusted at least annually in accordance with rules adopted by the board to reflect any net earnings or losses on the amounts in the account. The adjustments described in this subsection shall continue until the amounts in the account are withdrawn or

applied against the costs of the pension or other retirement benefits that are payable to the member or the member's beneficiary under this chapter or ORS chapter 238.

(3)(a) Unless the amounts in an account established under this section are withdrawn under ORS 238A.375, the amounts in the account established under this section shall be applied by the board to pay the costs of the pension or other retirement benefits that are payable to the member or the member's beneficiary under this chapter or ORS chapter 238 and that accrue on or after July 1, 2020.

(b) If the amounts in the account established under this section exceed the costs of the pension or other retirement benefits that are payable to the member or the member's beneficiary under this chapter or ORS chapter 238 and that accrue on or after July 1, 2020, the board shall refund the excess amounts in a lump sum to the member or the member's beneficiary.

SECTION 4. ORS 238A.110 is amended to read: 238A.110. Membership under the pension program terminates when:

- (1) A member dies;
- (2) A member withdraws under ORS [238A.120] 238A.375; or
- (3) A member forfeits retirement credit under ORS 238A.145.

SECTION 5. ORS 238A.120 is amended to read: 238A.120. [(1) A vested inactive member may withdraw from the pension program if:]

[(a) The actuarial equivalent of the member's benefit under the pension program at the time of withdrawal is \$5,000 or less; and]

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

[(2) Upon withdrawal under this section, the Public Employees Retirement Board shall pay the withdrawing member the actuarial equivalent of the member's benefit in a lump sum.]

[(3) If a vested inactive member withdraws from the pension program under this section and is thereafter reemployed by a participating public employer:] **A vested inactive member who withdraws from the individual account program under ORS 238A.375 cancels the person's membership in the Public Employees Retirement System. If the person is thereafter reemployed by a participating public employer:**

[(a)] (1) The person may reestablish membership in the pension program only for the purpose of service performed after the person is reemployed; and

[(b)] (2) Any service performed before the withdrawal may not be credited toward the period of service required by ORS 238A.100 or 238A.115 or to-

ward the accrual of retirement credit under ORS 238A.140, 238A.150 or 238A.155.

[(4) A member who has an individual account or accounts in the individual account program established under ORS 238A.025 may withdraw from the pension program under this section only if the member also withdraws all individual accounts pursuant to ORS 238A.375. A member who has a member account established under ORS chapter 238 may withdraw from the pension program under this section only if the member also withdraws that member account in the manner provided by ORS 238.265. A member who has an account established under ORS 238.440 may withdraw from the pension program under this section only if the member also withdraws the account established under ORS 238.440.]

[(5) For the purposes of this section, the actuarial equivalent of a member's benefit does not include any value attributable to adjustments to the benefit under ORS 238A.210.]

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

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

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

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

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

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

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

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

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

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

(5) If a member of the individual account program who is not vested in the employer account performs fewer than 600 hours of service in each of five consecutive calendar years, hours of service performed before the first calendar year of the pe-

riod of five consecutive calendar years shall be disregarded for purposes of determining whether the member is vested under subsection (3)(a) of this section.

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

(7) A member becomes vested in the employee pension stability account established for the member under section 3 of this 2019 Act on the date the employee pension stability account is established.

SECTION 7. ORS 238A.335 is amended to read:

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

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

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

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

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

SECTION 8. ORS 238A.375 is amended to read:

238A.375. (1) An inactive member of the individual account program may elect to receive a distribution of the amounts in the member's employee account, rollover account, *[and]* employer account **and employee pension stability account** to the extent the member is vested in those accounts under ORS 238A.320 if the inactive member has separated from all service with participating public employers

and with employers who are treated as part of a participating public employer's controlled group under the federal laws and rules governing the status of the **Public Employees Retirement System** and the **Public Employees Retirement Fund** as a qualified governmental retirement plan and trust.

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

(3) A member may not make an election under this section for less than all of the member's individual accounts described in ORS 238A.350, **and the member's employee pension stability account described in section 3 of this 2019 Act**, in which the member is vested.

(4) A member who is vested in the pension program established under this chapter and who *[is eligible to withdraw from the pension program under ORS 238A.120 may make an election under this section only if the member also withdraws from the pension program]* **withdraws the member's accounts under this section cancels all membership rights in the system.**

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

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

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

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

(b) If a member of the individual account program dies before retirement, the amounts in the employee pension stability account established for the member under section 3 of this 2019 Act shall be applied by the Public Employees Retirement Board to pay the costs of any benefit payable under ORS 238.395 or 238A.230 that accrues on or after July 1, 2020. If the amounts in the employee pension stability account exceed the costs of the benefit payable

under ORS 238.395 or 238A.230 that accrues on or after July 1, 2020, the excess amounts shall be paid in a lump sum to the beneficiary or beneficiaries designated by the member for the purposes of this section.

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

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

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

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

(c) The member's estate.

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

SECTION 10. ORS 238.105 is amended to read:

238.105. (1) Whenever, within five years after the employee is separated from all service entitling the employee to membership in the **Public Employees Retirement** System, an employee who has withdrawn the amount credited to the member account of the member reenters the service of an employer participating in the system, the employee's rights in

the system that were forfeited by the withdrawal shall be restored upon repaying to the **Public Employees Retirement** Board within one year after reentering the service of the employer, the full amount so withdrawn together with the interest that would have been accumulated on the sum had the amount not been withdrawn.

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

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

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

[(c)] (b) Withdrawal of individual accounts pursuant to ORS 238A.375.

SECTION 11. ORS 238.115 is amended to read:
238.115. (1)(a) A member of the **Public Employees Retirement** System who, after separation from all service entitling the employee to membership in the system and withdrawal of the amount credited to the member account of the member, reenters the service of an employer participating in the system and serves as an active member of the system for 10 years after that reentry, and who has not otherwise obtained restoration of creditable service forfeited by the withdrawal, shall obtain restoration of one full month of creditable service forfeited by the withdrawal for each three full months of service as an active member after that reentry if the member, within 90 days before the effective date of retirement of the member:

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

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

(b) If a member who obtains restoration of creditable service as provided in this subsection does not obtain restoration of all creditable service forfeited by the withdrawal pursuant to service after reentry, the payment under paragraph (a) of this subsection shall be reduced proportionately to reflect the percentage of creditable service restored.

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

(2) A member who forfeited creditable service rendered to a public employer before March 27, 1953, because under ORS 237.976 (2) the employee withdrew contributions of the employee to the Public Employees Retirement System established by chapter 401, Oregon Laws 1945, and who did not obtain restoration of creditable service so forfeited as provided in chapter 857, Oregon Laws 1977, shall, upon re-

tiement, receive restoration of creditable service so forfeited, if the member, before the effective date of retirement of the member:

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

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

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

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

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

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

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

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

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

[(c)] (b) Withdrawal of individual accounts pursuant to ORS 238A.375.

SECTION 12. ORS 238.265 is amended to read: 238.265. (1) Except as otherwise provided in this section, a member of the Public Employees Retirement System may withdraw from the Public Employees Retirement Fund the amount credited to the member account, if any, for the member if:

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

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

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

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

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

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

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

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

(4) [A member who is vested in the pension program established under ORS chapter 238A and who is eligible to withdraw from the pension program under ORS 238A.120 may withdraw a member account under this section only if the member also withdraws from the pension program.] A member who has an individual account or accounts in the individual account program established under ORS chapter 238A may withdraw a member account under this section only if the member also withdraws all individual accounts pursuant to ORS 238A.375. A member who has an account established under ORS 238.440 may withdraw a member account under this section only if the member also withdraws the account established under ORS 238.440.

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

SECTION 13. ORS 238.300 is amended to read: 238.300. Upon retiring from service at normal retirement age or thereafter, a member of the **Public Employees Retirement System** shall receive a service retirement allowance which shall consist of the following annuity and pensions:

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

(2)(a) A life pension (nonrefund) for current service provided by the contributions of employers **and, for pension benefits that accrue on or after July 1, 2020, amounts in the employee pension stability account established for the member under section 3 of this 2019 Act**, which pension, subject to paragraph (b) of this subsection, shall be an amount which, when added to the sum of the annuity, if any, under subsection (1) of this section and the annuity, if any, provided on the same basis and payable from the Variable Annuity Account, both annuities considered on a refund basis, results in a total of:

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

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

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

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

(i) The person is a member of the system, or a judge member of the system, on the day immediately before July 1, 2003; or

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

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

(c) As used in this subsection, "number of years of membership" means the number of full years of creditable service plus any remaining fraction of a year of creditable service. Except as otherwise provided in this paragraph, in determining a remaining fraction a full month shall be considered as one-twelfth of a year and a major fraction of a month shall be considered as a full month. Membership of a school district employee, an employee of an institution of higher education engaged in teaching or other school activity or an employee of the Department of Human Services, the Oregon Youth Authority, the Department of Corrections or the State Board of Education engaged in teaching or other school activity at an institution supervised by the authority, board or department, for all portions of a school year in a calendar year in which the district school, institution of higher education or school activity at an institution so supervised in which the member is employed is normally in session shall be considered as a full one-half year of membership. The number of years of membership of a member who received a refund of contributions as provided in ORS 237.976 (2) is limited to the number of years after the day before the date on which the refund was received. The number of years of membership of a member who is separated, for any reason other than death or disability, from all service entitling the member to membership in the system, who withdraws the amount credited to the member account of the member in the fund during absence from such service and who thereafter reenters the service of an employer participating in the system but does not repay the amount so withdrawn as provided in this chapter, is limited to the number of years after the day before the date of so reentering.

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

SECTION 14. ORS 238.305 is amended to read:

238.305. (1) Not later than 60 days after the first benefit payment is made to a retired member of the Public Employees Retirement System, the member may elect to convert the allowance described by ORS 238.300 as payable after retirement into a service retirement annuity of equivalent actuarial value of one of the optional forms named below. The election of Option 2, 2A, 3 or 3A shall be effective immediately upon the member's retirement.

Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be the actuarial equivalent of accumulated contributions by the member **under this chapter** and interest thereon credited at the time of retirement (if death occurs before the first payment is due, the member

account shall be treated as though death had occurred before retirement); (b) a life pension (nonrefund) provided by the contributions of employers as provided in ORS 238.300 (2) **and, for pension benefits that accrue on or after July 1, 2020, amounts in the employee pension stability account established for the member under section 3 of this 2019 Act**; (c) an additional nonrefund pension for prior service credit, including military service, credited to the member at the time of first becoming a member of the system, as elsewhere provided in this chapter, which pension shall be provided by the contributions of the employer; or

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

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

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

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

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

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

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

(a) A refund of accumulated contributions by the member **under this chapter** and interest thereon credited at the time of refund; and

(b) A life pension (nonrefund) provided by the contributions of employers as provided in ORS 237.147 (2) (1979 Replacement Part) **and, for pension benefits that accrue on or after July 1, 2020, amounts in the employee pension stability account established for the member under section 3 of this 2019 Act**, and an additional life pension (nonrefund) for prior service credit as provided in ORS 238.300 (3). At the same time as making the election under this subsection, the member may elect to convert the pensions described by this paragraph into a service retirement annuity of equivalent actuarial value of one of the optional forms named as Option 2, 2A, 3 or 3A under subsection (1) of this section.

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

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

(b) An amount that matches the amount of accumulated contributions by the member and interest thereon, provided by the contributions of employers **and, for pension benefits that accrue on or after July 1, 2020, amounts in the employee pension stability account established for the member under section 3 of this 2019 Act**; and

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

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

(A) The amount to be paid **under subsection (3)(b) of this section** by employer contributions [*under subsection (3)(b) of this section*] **and amounts in the employee pension stability account established for the member under section 3 of this 2019 Act** shall be transferred to the individual ac-

count of the member in the Public Employees Retirement Fund as of the effective date of retirement.

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

(C) The amount of each installment payment shall be designated by the member at the time of making the election, but the last installment payment shall be the unrefunded balance remaining in the member account of the member in the fund.

(D) The member account of the member in the fund shall be maintained until the last installment payment is paid. The board shall establish procedures for computing and crediting interest annually on the unrefunded balance of the member account.

(E) A yearly installment payment shall be paid on the anniversary of the date of the first installment payment.

(F) The member is considered to have elected to transfer any balance in the variable account of the member to the regular account of the member.

(G) If the member dies before payment of all installment payments, the unrefunded balance in the member account of the member plus interest to date of disbursement is payable as provided in ORS 238.390 (4).

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

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

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

(6) If a retired member has elected to receive a service retirement allowance under Option 2A or Option 3A as provided in subsection (1) of this section, and if the beneficiary under that option dies after the expiration of the time within which the member could change the election of an option or if the beneficiary is the spouse of the member and the

marriage relationship is terminated as provided by law after the expiration of the time within which the member could change the election of an option, the member may elect to receive, in lieu of the optional form of allowance previously elected, the allowance that the member would have received on the effective date of retirement under Option 1 as provided in subsection (1) of this section and adjusted by the actual amount of any cost-of-living or other post-retirement adjustments made to the original allowance since the effective date of retirement. Notice of election under this subsection must be in a form approved by the board. If an election is made under this subsection, the Option 1 payment amount is applicable to the first full month after the death of the beneficiary, or the first full month after entry of the judgment of divorce, and payable the first day of the month thereafter. If the increased amount is not paid in any month in which the increased amount is due, the board shall make a lump sum payment to the retired member that is equal to the difference between the amount paid to the member for that month and the amount that should have been paid under the provisions of this subsection.

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

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

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

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

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

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

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

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

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

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

SECTION 15. ORS 238.320 is amended to read:

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

(a) A disability retirement refund annuity based on the contributions **under this chapter**, if any, credited to the member account of the member.

(b) A current service pension provided by the contributions of employers **and, for benefits that accrue on or after July 1, 2020, amounts in the employee pension stability account established for the member under section 3 of this 2019 Act**, equal to:

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

(B) For a member other than a police officer or firefighter, the pension to which the member would have been entitled if the member had worked continuously until attaining the age of 58, or if the member has attained the age of 58, the pension which the member would receive were the member to retire for service, as provided in this chapter.

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

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

(3) Whenever an employee who is a member of the system and who has been an employee for 10 years or more of an employer participating in the

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

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

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

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

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

SECTION 16. ORS 238.325 is amended to read:

238.325. (1) At any time after establishing membership, but before the expiration of 90 days after the Public Employees Retirement Board makes its

finding that the employee is disabled, an employee who is a member of the Public Employees Retirement System may elect to convert the disability retirement allowance otherwise payable on the member account of the member into a disability retirement annuity of equivalent actuarial value, by selecting one of the optional forms named below. The election of Option 2, 2A, 3 or 3A shall be effective immediately upon the effective date of the member's disability, and in the event of death within the first 90-day period of incapacity, payment to the beneficiary of the member shall be made in accordance with the option selected.

Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be the actuarial equivalent of the accumulated contributions **under this chapter** and interest thereon credited to the member at the time the member retires (if death occurs before the first payment is due, the member account of the member shall be treated as though death had occurred before retirement); (b) a life pension (nonrefund) provided by the contributions of employers **and, for benefits that accrue on or after July 1, 2020, amounts in the employee pension stability account established for the member under section 3 of this 2019 Act** as provided in ORS 238.320 (1)(b); (c) an additional nonrefund pension for prior service credit, including military service, credited to the member at the time the member first becomes a member of the system, as elsewhere provided in this chapter, which pension shall be provided by the contributions of the employer; or

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

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

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

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

Option 4. A reduced disability retirement allowance payable during the period of incapacity, with the provisions that if the member dies during the period of incapacity and before a total of 180 monthly payments is made, the remainder of the 180 monthly payments shall be paid monthly to the beneficiary the member nominates by written designation duly acknowledged and filed with the board at any time before the member's death; and that if the member designates no beneficiary to receive the monthly payments or no such beneficiary is able to receive the monthly payments, an amount equal to the actuarial value, on the date of the member's death, of the total of the monthly payments not made to the member shall be paid according to ORS 238.390 for disposal of an amount credited to the member account of a member at the time of death; and that if the beneficiary receiving monthly payments dies before the total number of monthly payments to which the beneficiary is entitled is made, an amount equal to the actuarial value, on the date of the beneficiary's death, of the total of the monthly payments not made to the member and beneficiary shall be paid according to ORS 238.390 for disposal of an amount credited to the member account of a member at the time of death and as if the beneficiary had been a member.

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

(3) If a retired member has elected to receive a disability retirement allowance under Option 2A or Option 3A as provided in subsection (1) of this section, and if the beneficiary under that option dies after the expiration of the time within which the member could change the election of an option or if the beneficiary is the spouse of the member and the marriage relationship is terminated as provided by law after the expiration of the time within which the member could change the election of an option, the member may elect to receive, in lieu of the optional form of allowance previously elected, the allowance that the member would have received on the effective date of retirement under Option 1 as provided in subsection (1) of this section and adjusted by the actual amount of any cost-of-living or other post-

retirement adjustments made to the original allowance since the effective date of retirement. Notice of election under this subsection must be in a form approved by the board. If an election is made under this subsection, the Option 1 payment amount is applicable to the first full month after the death of the beneficiary, or the first full month after entry of the judgment of divorce, and payable the first day of the month thereafter. If the increased amount is not paid in any month in which the increased amount is due, the board shall make a lump sum payment to the retired member that is equal to the difference between the amount paid to the member for that month and the amount that should have been paid under the provisions of this subsection.

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

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

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

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

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

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

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

SECTION 17. ORS 238.395 is amended to read:

238.395. (1) In addition to any other benefits under this chapter, a death benefit, provided by contributions of the public employer under ORS 238.225 **and, for benefits that accrue on or after July 1, 2020, amounts in the employee pension stability account established for the member under section 3 of this 2019 Act**, shall be paid to the beneficiaries designated under ORS 238.390 (1) of a person who is an active or inactive member of the system and who dies as a result of injuries received while employed in the service of the public employer or within 120 days after termination from service with a participating public employer. A member who is on a leave of absence without pay from employment with a participating public employer has not terminated service with that participating public employer for the purposes of this section.

(2) The death benefit referred to in subsection (1) of this section shall be an amount equal to the amount in the member account of the deceased member at the time of death.

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

(4) The beneficiary designated under subsection (1) of this section and ORS 238.390 (1) may elect to receive the amount payable in actuarially determined monthly payments for the life of such beneficiary as long as such monthly payments, plus the monthly amount if elected under ORS 238.390 (3), are at least \$200.

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

(6) Payment by the Public Employees Retirement Board of additional death benefits in the manner provided by this section completely discharges the board and system on account of the death, and shall hold the board and system harmless from any claim for wrongful payment.

SECTION 18. ORS 243.800 is amended to read:

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

a combination thereof, or by contracts for investments in mutual funds.

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

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

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

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

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

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

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

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

(6)(a) An administrative or academic employee who elects to participate in the Optional Retirement Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall be considered by the Public Employees Retirement Board to be a terminated member under the provisions of ORS 238.095 as of the effective date of the election, and the [amount] **amounts** credited to the member [account] **accounts** of the member **established under ORS 238.250, 238.260 and 238A.350 and section 3 of this 2019 Act** shall be transferred directly to the Optional Retirement Plan by the Public Employees Retirement Board in the manner provided by subsection (7) of this section.

(b) An administrative or academic employee who elects to participate in the Optional Retirement Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall be considered to be an inactive member by the

Public Employees Retirement Board and shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes a written request to the Public Employees Retirement Board for a transfer of the amounts credited to the member [account] **accounts** of the member **established under ORS 238.250, 238.260 and 238A.350 and section 3 of this 2019 Act** to the Optional Retirement Plan. A request for a transfer must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer all amounts credited to the member [account] **accounts** of the member **established under ORS 238.250, 238.260 and 238A.350 and section 3 of this 2019 Act** directly to the Optional Retirement Plan **in the manner provided by subsection (7) of this section**, and shall terminate all rights, privileges and options of the employee under [ORS chapter 238] **the Public Employees Retirement System**.

(c) [An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115] **An administrative or academic employee who elects to participate in the Optional Retirement Plan and who is a member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that the election becomes effective, but who has not vested in the program under ORS 238A.115** on the date that the election becomes effective, shall be considered to be a terminated member of the [pension program] **Public Employees Retirement System** by the Public Employees Retirement Board as of the effective date of the election. **The board shall transfer the amounts credited to the member accounts of the member established under ORS 238A.350 and section 3 of this 2019 Act directly to the Optional Retirement Plan in the manner provided by subsection (7) of this section.**

(d) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be considered an inactive member of the pension program by the Public Employees Retirement Board as of the effective date of the election. [An employee] **A member** who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the pension program. *If the actuarial equivalent of the employee's benefit under the pension program at the time that the election becomes effective is \$5,000 or less, the employee may make,* **unless the member makes** a written request to the Public Employees Retirement Board for a transfer of the [employee's interest under the pension program] **amounts credited to the member accounts of the member established under ORS 238A.350 and section 3 of this 2019 Act** to the

Optional Retirement Plan. The request must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the [amount determined to be the actuarial equivalent of the employee's benefit under the pension program] **amounts credited to the member accounts of the member established under ORS 238A.350 and section 3 of this 2019 Act** directly to the Optional Retirement Plan **in the manner provided by subsection (7) of this section**, and shall terminate the membership of the employee in the [pension program] **Public Employees Retirement System**.

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

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

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

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

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

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

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

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

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

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

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

(B) Completion of:

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

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

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

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

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

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

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

SECTION 19. ORS 341.551 is amended to read:

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

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

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

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

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

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

employed by a community college district that participates in the plan, whether by reason of employment by the district or any other participating public employer.

(5)(a) An administrative employee who elects to participate in the optional retirement plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall be considered by the Public Employees Retirement Board to be a terminated member under the provisions of ORS 238.095 as of the effective date of the election, and the [amount] amounts credited to the member [account] accounts of the member **established under ORS 238.250, 238.260 and 238A.350 and section 3 of this 2019 Act** shall be transferred directly to the optional retirement plan by the Public Employees Retirement Board in the manner provided by subsection (6) of this section.

(b) An administrative employee who elects to participate in the optional retirement plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall be considered to be an inactive member by the Public Employees Retirement Board and shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes a written request to the Public Employees Retirement Board for a transfer of the amounts credited to the member [account] accounts of the member **established under ORS 238.250, 238.260 and 238A.350 and section 3 of this 2019 Act** to the optional retirement plan. A request for a transfer must be made at the time the member elects to participate in the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall transfer all amounts credited to the member [account] accounts of the member **established under ORS 238.250, 238.260 and 238A.350 and section 3 of this 2019 Act** directly to the optional retirement plan in the manner provided by subsection (6) of this section and shall terminate all rights, privileges and options of the employee under [ORS chapter 238] **the Public Employees Retirement System**.

(c) *[An administrative employee who elects to participate in the optional retirement plan and who is not a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115]* **An administrative employee who elects to participate in the optional retirement plan and who is a member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that the election becomes effective, but who has not vested in the program under ORS 238A.115** on the date that the election becomes effective, shall be considered to be a terminated member of the [pension program] **Public Employees Retirement System** by the Public Employees Retirement Board as of the effective date of the election. **The board shall transfer the amounts credited to the member accounts of the member established under ORS 238A.350 and section 3 of this 2019 Act directly to the optional retirement**

plan in the manner provided by subsection (6) of this section.

(d) An administrative employee who elects to participate in the optional retirement plan and who is a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 on the date that the election becomes effective shall be considered an inactive member of the pension program by the Public Employees Retirement Board as of the effective date of the election. *[An employee]* **A member** who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the pension program. *If the actuarial equivalent of the employee's benefit under the pension program at the time that the election becomes effective is \$5,000 or less, the employee may make*, **unless the member makes** a written request to the Public Employees Retirement Board for a transfer of the *[employee's interest under the pension program]* **amounts credited to the member accounts of the member established under ORS 238A.350 and section 3 of this 2019 Act** to the optional retirement plan. The request must be made at the time the member elects to participate in the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the *[amount determined to be the actuarial equivalent of the employee's benefit under the pension program]* **amounts credited to the member accounts of the member established under ORS 238A.350 and section 3 of this 2019 Act** directly to the optional retirement plan **in the manner provided by subsection (6) of this section** and shall terminate the membership of the employee in the *[pension program]* **Public Employees Retirement System.**

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

ment plan and shall terminate the membership of the employee in the individual account program.]

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

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

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

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

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

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

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

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

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

SIDE ACCOUNTS

SECTION 20. Section 3b, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 3b. (1) If a participating public employer makes a lump sum payment from moneys not borrowed by the employer to an account established under ORS 238.229 in an amount equal to or greater than \$10 million, the Public Employees Retirement Board shall allow the participating public employer to choose an amortization period of six years, 10 years, 16 years or 20 years for the use of the lump sum payment to offset contributions to the system that the public employer would otherwise be required to make for the liabilities against which the lump sum payment is applied.

(2)(a) The board shall allow a participating public employer making a lump sum payment under this section to choose the year in which to begin to use the lump sum payment to offset contributions to the system that the public employer would otherwise be required to make for the liabilities against which the lump sum payment is applied. The board shall begin using the lump sum payment on July 1 of the year chosen under this subsection, with the beginning contribution offset rate based on the actuarial report under ORS 238.605 most recently published as of the date chosen by the public employer.

(b) Notwithstanding paragraph (a) of this subsection, the board may, after consultation with the participating public employer, begin using a lump sum payment to offset contributions in an earlier year than the year chosen by the public employer under this section to ensure that the period for using the lump sum payment, including earnings accrued, will end no later than 20 years after the date of the actuarial report under ORS 238.605 for the year the lump sum payment is made.

(c) A lump sum payment for which a participating public employer chooses when to begin to use the lump sum payment to offset contributions under this subsection is not a qualifying lump sum payment for purposes of section 2, chapter 105, Oregon Laws 2018.

(d) In lieu of the expenses authorized under ORS 238.229 (3), the board may charge a participating public employer expenses for administration of an account as provided by this subsection in an amount established by the board by rule.

SECTION 21. Section 3b, chapter 105, Oregon Laws 2018, as amended by section 20 of this 2019 Act, is amended to read:

Sec. 3b. [(1)] If a participating public employer makes a lump sum payment from moneys not borrowed by the employer to an account established under ORS 238.229 in an amount equal to or greater than \$10 million, the Public Employees Retirement Board shall allow the participating public employer

to choose an amortization period of six years, 10 years, 16 years or 20 years for the use of the lump sum payment to offset contributions to the system that the public employer would otherwise be required to make for the liabilities against which the lump sum payment is applied.

[(2)(a) The board shall allow a participating public employer making a lump sum payment under this section to choose the year in which to begin to use the lump sum payment to offset contributions to the system that the public employer would otherwise be required to make for the liabilities against which the lump sum payment is applied. The board shall begin using the lump sum payment on July 1 of the year chosen under this subsection, with the beginning contribution offset rate based on the actuarial report under ORS 238.605 most recently published as of the date chosen by the public employer.]

[(b) Notwithstanding paragraph (a) of this subsection, the board may, after consultation with the participating public employer, begin using a lump sum payment to offset contributions in an earlier year than the year chosen by the public employer under this section to ensure that the period for using the lump sum payment, including earnings accrued, will end no later than 20 years after the date of the actuarial report under ORS 238.605 for the year the lump sum payment is made.]

[(c) A lump sum payment for which a participating public employer chooses when to begin to use the lump sum payment to offset contributions under this subsection is not a qualifying lump sum payment for purposes of section 2, chapter 105, Oregon Laws 2018.]

[(d) In lieu of the expenses authorized under ORS 238.229 (3), the board may charge a participating public employer expenses for administration of an account as provided by this subsection in an amount established by the board by rule.]

PENSION OBLIGATION BONDS

SECTION 22. Section 23 of this 2019 Act is added to and made a part of ORS 238.692 to 238.698.

SECTION 23. (1) Before a public body, or an intergovernmental entity formed pursuant to ORS 238.695, may authorize the issuance of bonds under ORS 238.694, the public body or intergovernmental entity must first:

(a) Obtain a statistically based assessment from an independent economic or financial consulting firm regarding the likelihood that investment returns on bond proceeds will exceed the interest cost of the bonds under various market conditions; and

(b) Make a report available to the general public that:

(A) Describes the results of the assessment; and

(B) Discloses whether the public body or intergovernmental entity has retained the services of an independent SEC-registered advisor.

(2) The public body or intergovernmental entity shall transmit the assessment to the State Treasurer at least 30 days before issuing the bonds.

(3) The State Treasurer shall provide to the State Debt Policy Advisory Commission an annual report on bonds issued under ORS 238.694. The report must describe each bond issuance under ORS 238.694 that took place on or after the effective date of this 2019 Act and that remains outstanding, including, for each issuance:

(a) The actual interest rate owed over the term of the bonds;

(b) The projected rate of return on the bond proceeds, as determined by the assessment required under subsection (1) of this section; and

(c) The actual rate of return on the bond proceeds in the previous fiscal year and the cumulative rate of return on the bond proceeds.

(4) As used in this section, “independent SEC-registered advisor” has the meaning given the term “independent registered municipal advisor” in 17 C.F.R. 240.15Ba1-1, as amended.

SECTION 24. ORS 238.694 is amended to read:

238.694. (1) The Legislative Assembly finds that authorizing issuance of revenue bonds to finance pension liabilities may reduce the cost of public pensions to taxpayers and that the reduction of those costs to taxpayers is a matter of statewide concern.

(2) Notwithstanding the limitation on indebtedness in ORS 287A.105 or any other limitation on indebtedness or borrowing under state or local law, for the purpose of obtaining funds to pay the pension liability of a public body, the governing body of a public body may authorize and cause the issuance of revenue bonds under ORS chapter 287A, **subject to section 23 of this 2019 Act.**

(3) The governing body of a public body may pledge the full faith and credit and taxing power of the public body to the payment of the principal and interest on bonds issued under ORS 238.692 to 238.698, and any premium on those bonds.

(4) Unless the charter of a county provides a lower limit, a county may issue revenue bonds to finance pension liabilities in an amount that does not exceed five percent of the real market value of the taxable property within the boundaries of the county.

(5) Revenue bonds authorized under this section need not comply with the procedure specified in ORS 287A.150.

(6) A public body that issues revenue bonds under this section may also issue revenue bonds for the purpose of refunding the bonds.

(7) A public body may enter into indentures or other agreements with trustees or escrow agents for the issuance, administration or payment of bonds authorized under this section.

SECTION 25. ORS 238.695 is amended to read:

238.695. (1) Public bodies may enter into intergovernmental agreements for the collective issuance, administration or payment of bonds authorized under ORS 238.694. An agreement for collective issuance, administration or payment of bonds under this subsection may provide for the contribution and pooling of the assets of the public bodies as security for the bonds, and may make provisions for such other matters as the public bodies determine convenient. Notwithstanding ORS 190.080, any intergovernmental entity created by public bodies under this section shall have the power to issue bonds as described in ORS 238.694, **subject to section 23 of this 2019 Act.** The bonds may be issued and sold as parity bonds, issued and sold individually or issued and sold in such combinations or forms as determined to be appropriate by the public bodies.

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

(3) Public bodies may enter into indentures or other agreements with trustees or escrow agents for the issuance, administration or payment of bonds pursuant to an intergovernmental agreement entered into under this section.

(4) The State Treasurer may cooperate with, assist and provide recommendations to public bodies, and any intergovernmental entity created by public bodies under this section, relating to all matters involved in the issuance, administration and payment of bonds. Any expenses incurred by the State Treasurer in providing assistance to public bodies under this section may be paid as an administrative expense of the public body from the proceeds of the bonds issued with the assistance of the State Treasurer.

SECTION 26. ORS 238.698 is amended to read:

238.698. (1) A public body, or a group of public bodies that enter into an intergovernmental agreement under ORS 238.695, that receives funds from any state agency may enter into a funds diversion agreement with the state agency for the purpose of paying the principal and interest on bonds issued under ORS 238.692 to 238.698, and any premium on those bonds. A diversion agreement entered into under this section must provide that:

(a) Moneys payable to the public body or group of public bodies by the state agency from appropriations from the General Fund or any other source of moneys will be paid directly to a debt service trust fund established under ORS 238.696 in amounts equal to the debt service owed by the public body or group of public bodies;

(b) The state agency must pay the amounts required under the funds diversion agreement to the debt service trust fund established under ORS

238.696 pursuant to the schedule specified in the agreement before paying any other amounts to the public body or group of public bodies;

(c) The agreement is irrevocable; and

(d) The agreement will remain in effect until all the bonds issued by the public body or under the intergovernmental agreement are mature or redeemed.

(2) A school district, education service district or public charter school may not enter into a funds diversion agreement to divert more than the amount of funds received by the district or public charter school from the State School Fund.

[(2)] **(3)** If for any reason a state agency that has entered into a funds diversion agreement is not able to pay moneys to a debt service trust fund as contemplated by the agreement, the state agency shall give notice to the public body or group of public bodies within 30 days after the state agency is aware that the moneys will not be paid.

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

(a) To pay any amount that a public body is not otherwise entitled to receive under law; or

(b) To pay any principal or interest on bonds issued under ORS 238.692 to 238.698.

AMORTIZATION OF UNFUNDED ACTUARIAL LIABILITY

SECTION 27. In the year 2019, the Public Employees Retirement Board shall determine the liabilities of the Public Employees Retirement System attributable to the benefits to be provided to members who established membership in the system before August 29, 2003, and shall set the amount of contributions to be made by participating public employers, and by other public employers that are required to make contributions on behalf of members, to ensure that those liabilities will be funded 22 years after the date on which the determination is made.

SECTION 28. Section 27 of this 2019 Act is repealed on January 2, 2020.

EMPLOYEE CHOICE

SECTION 29. Section 2, chapter 118, Oregon Laws 2018, is amended to read:

Sec. 2. (1) Except as provided in subsection [(6)] (5) of this section, the Public Employees Retirement Board, in consultation with the office of the State Treasurer, shall adopt rules providing that if the Oregon Investment Council invests the assets of the individual account program in multiple risk categories depending on the characteristics of an individ-

ual member, a member of the individual account program may elect to have the moneys in the member's individual accounts established under ORS 238A.350 deposited into an investment option approved by the council.

(2) A member may make an election under this section once per calendar year. The board shall establish by rule the date by which a member must make an election under this section in order for the election to become effective on January 1 of the following calendar year.

[(3)] *Subject to such direction and oversight as may be provided by the Legislative Assembly, the board shall take all steps necessary to develop and implement the information technology systems needed to implement and carry out this section.*

[(4)] *The board may contract with a private provider for purposes of implementing this section. The board is not subject to the provisions of ORS chapter 279A or 279B in awarding a contract under the provisions of this subsection. The board shall establish procedures for inviting proposals and awarding contracts under this subsection.*

(3) The board shall give each member of the individual account program a disclosure statement in writing that contains information regarding the investment options approved under this section, including the risk and return characteristics of the investment options, that members should consider when making an investment decision for their funds.

[(5)] **(4)** The board may adopt rules as necessary to implement this section, **which may include rules to create a separate trust or subtrust to hold moneys that are subject to members' investment choice and direction**, but the council and the office of the State Treasurer retain authority over investment decisions required to implement this section.

[(6)] **(5)** The board may not adopt rules under subsection (1) of this section that violate state or federal laws or regulations.

SECTION 30. Section 3, chapter 118, Oregon Laws 2018, is amended to read:

Sec. 3. The Public Employees Retirement Board shall allow members of the individual account program to make an election under section 2, *[of this 2018 Act]* **chapter 118, Oregon Laws 2018**, that becomes effective on January 1, *[2019]* **2021**.

SECTION 31. Section 32 of this 2019 Act is added to and made a part of ORS chapter 238A.

SECTION 32. The state, the State Treasurer, the Oregon Investment Council and the Public Employees Retirement Board, and their officers or employees, are not liable in a civil action or otherwise, for any losses suffered by a member because of a member's election of an investment option under section 2, chapter 118, Oregon Laws 2018.

SECTION 33. Section 4, chapter 118, Oregon Laws 2018, is repealed.

WORK AFTER RETIREMENT

SECTION 34. Section 35 of this 2019 Act is added to and made a part of ORS chapter 238.

SECTION 35. (1) Notwithstanding ORS 238.082 (2) and subject to the limitations in this section, during calendar year 2020, 2021, 2022, 2023 or 2024, a participating public employer may employ any retired member without limitation on the hours worked by the retired member if the administrative head of the public employer is satisfied that the employment is in the public interest.

(2) A public employer that employs a retired member under ORS 238.082 or 238.088 (2) during calendar year 2020, 2021, 2022, 2023 or 2024 shall contribute to the Public Employees Retirement Board the percentage of the member's wages that would have been contributed to the board under ORS 238.225 if the member were an active member of the Public Employees Retirement System. Employer contributions made under this section are in addition to employer contributions made under ORS 238.225. The board shall apply contributions made by a public employer under this subsection against the liabilities of the public employer. The board shall adopt rules governing payments made under this subsection.

(3) A retired member who is receiving old-age, survivors or disability insurance benefits under the federal Social Security Act may be employed during calendar year 2020, 2021, 2022, 2023 or 2024 for no more than the number of hours for which the salary equals the maximum allowed for receipt of the full amount of those benefits to which the person is entitled.

(4) This section does not apply to any member who retires under the provisions of ORS 238.280 (1), (2) or (3), unless the person's date of retirement is more than six months before the date the person is employed under this section.

(5) Employment under this section does not affect the status of a person as a retired member of the system and a recipient of retirement benefits under this chapter.

SECTION 36. Section 37 of this 2019 Act is added to and made a part of ORS chapter 238A.

SECTION 37. (1) Notwithstanding ORS 238A.245 and subject to the limitations in this section, during calendar year 2020, 2021, 2022, 2023 or 2024, a participating public employer may employ any retired member without limitation on the hours worked by the retired member if the administrative head of the public employer is satisfied that the employment is in the public

interest. The Public Employees Retirement Board shall continue making pension payments to a retired member of the pension program who is reemployed under this section.

(2) A public employer that employs a retired member during calendar year 2020, 2021, 2022, 2023 or 2024 shall contribute to the board the percentage of the member's wages that would have been contributed to the board under ORS 238A.220 if the member were an active member of the Public Employees Retirement System. Employer contributions made under this section are in addition to employer contributions made under ORS 238A.220. The board shall apply contributions made by a public employer under this subsection against the liabilities of the public employer. The board shall adopt rules governing payments made under this subsection.

(3) A retired member who is receiving old-age, survivors or disability insurance benefits under the federal Social Security Act may be employed during calendar year 2020, 2021, 2022, 2023 or 2024 for no more than the number of hours for which the salary equals the maximum allowed for receipt of the full amount of those benefits to which the person is entitled.

(4) This section does not apply to any member who retires under the provisions of ORS 238A.185, unless the person's date of retirement is more than six months before the date the person is employed under this section.

(5) Employment under this section does not affect the status of a person as a retired member of the pension program and a recipient of retirement benefits under this chapter.

SECTION 38. Sections 35 and 37 of this 2019 Act are repealed on January 2, 2025.

FINAL AVERAGE SALARY

SECTION 39. ORS 238.005, as amended by section 4, chapter 54, Oregon Laws 2018, is amended to read:

238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

(a) Persons engaged as independent contractors.

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

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

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

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

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

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

(a) The average salary per calendar year paid by one or more participating public employers to an employee who is an active member of the system in three of the calendar years of membership before the effective date of retirement of the employee, in which three years the employee was paid the highest

salary. The three calendar years in which the employee was paid the largest total salary may include calendar years in which the employee was employed for less than a full calendar year. If the number of calendar years of active membership before the effective date of retirement of the employee is three or fewer, the final average salary for the employee is the average salary per calendar year paid by one or more participating public employers to the employee in all of those years, without regard to whether the employee was employed for the full calendar year.

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

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

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

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

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

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

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

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

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

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

(17) "Normal retirement age" means:

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

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

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

(19) "Police officer" includes:

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

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

(c) Employees of the Oregon Liquor Control Commission who are classified as regulatory specialists by the administrator of the commission.

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

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

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

(g) Parole and probation officers employed by the Department of Corrections, parole and probation officers who are transferred to county employment under ORS 423.549 and adult parole and probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes of this chapter by the county governing body. If a county classifies adult parole and probation officers as police officers for the purposes of this chapter, and the employees so classified are represented by a labor organization, any proposal by the county to change that classification or to cease to classify adult parole and probation officers as police officers for the purposes of this chapter is a mandatory subject of bargaining.

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

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

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

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

(l) Investigators of the Criminal Justice Division of the Department of Justice.

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

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

(o) The Director of the Department of Corrections.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) “Salary” includes but is not limited to:

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

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

(C) Retroactive payments described in ORS 238.008; and

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

(c) “Salary” or “other advantages” does not include:

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

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

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

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

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

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

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

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

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

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

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

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

(M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a calendar year. If any period over which salary is determined is less than 12 months, the \$195,000 limitation for that period shall be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12. On January 1 of each year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

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

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

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

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

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

SECTION 40. ORS 238A.005, as amended by section 5, chapter 54, Oregon Laws 2018, and section 2, chapter 101, Oregon Laws 2018, is amended to read:

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

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

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

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

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

(a) Persons engaged as independent contractors;

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

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

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

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

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

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

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

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

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

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

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

(m) Judges.

(5) "Firefighter" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) "Salary" includes the following amounts:

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

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

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

employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2017.

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

(E) Retroactive payments described in ORS 238.008.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(L) **For years before 2020**, any amount in excess of \$200,000 for a calendar year. If any period

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

(M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a calendar year. If any period over which salary is determined is less than 12 months, the \$195,000 limitation for that period shall be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is 12. On January 1 of each year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.

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

(19) "Workers' compensation benefits" means:

(a) Payments made under ORS chapter 656; or

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

SECTION 41. ORS 238.580 is amended to read:

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

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

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

PROCEEDS OF SPORTS BETTING

SECTION 42. ORS 461.010 is amended to read:

461.010. Unless the context requires otherwise, the definitions contained in this chapter shall govern the construction of this chapter.

(1) "Commissioner" means one of the members of the lottery commission appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter to oversee the state lottery.

(2) "Director" means the Director of the Oregon State Lottery appointed by the Governor pursuant to the Constitution of the State of Oregon and this

chapter as the chief administrator of the Oregon State Lottery.

(3) "Lottery" or "state lottery" means the Oregon State Lottery established and operated pursuant to the Constitution of the State of Oregon and this chapter.

(4) "Lottery commission" or "commission" means the five-member body appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter to oversee the lottery and the director.

(5) "Lottery contractor" means a person with whom the state lottery has contracted for the purpose of providing goods and services for the state lottery.

(6) "Lottery game" or "game" means any procedure authorized by the commission whereby prizes are distributed among persons who have paid, or unconditionally agreed to pay, for tickets or shares that provide the opportunity to win such prizes.

(7) "Lottery game retailer" means a person with whom the lottery commission has contracted for the purpose of selling tickets or shares in lottery games to the public.

(8) "Lottery vendor" or "vendor" means any person who submits a bid, proposal or offer to provide goods or services to the commission or lottery.

(9) "Person" means any natural person or corporation, trust, association, partnership, joint venture, subsidiary or other business entity.

(10) "Sports betting game" means a lottery game in which the distribution of prizes is based on the results of one or more sporting events.

SECTION 42a. ORS 461.010, as amended by section 42 of this 2019 Act, is amended to read:

461.010. Unless the context requires otherwise, the definitions contained in this chapter shall govern the construction of this chapter.

(1) "Commissioner" means one of the members of the lottery commission appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter to oversee the state lottery.

(2) "Director" means the Director of the Oregon State Lottery appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter as the chief administrator of the Oregon State Lottery.

(3) "Lottery" or "state lottery" means the Oregon State Lottery established and operated pursuant to the Constitution of the State of Oregon and this chapter.

(4) "Lottery commission" or "commission" means the five-member body appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter to oversee the lottery and the director.

(5) "Lottery contractor" means a person with whom the state lottery has contracted for the purpose of providing goods and services for the state lottery.

(6) "Lottery game" or "game" means any procedure authorized by the commission whereby prizes

are distributed among persons who have paid, or unconditionally agreed to pay, for tickets or shares that provide the opportunity to win such prizes.

(7) "Lottery game retailer" means a person with whom the lottery commission has contracted for the purpose of selling tickets or shares in lottery games to the public.

(8) "Lottery vendor" or "vendor" means any person who submits a bid, proposal or offer to provide goods or services to the commission or lottery.

(9) "Person" means any natural person or corporation, trust, association, partnership, joint venture, subsidiary or other business entity.

[(10) "Sports betting game" means a lottery game in which the distribution of prizes is based on the results of one or more sporting events.]

SECTION 43. Section 44 of this 2019 Act is added to and made a part of ORS chapter 461.

SECTION 44. (1) The Oregon State Lottery Commission shall separately record and account for the costs and net proceeds of sports betting games.

(2) When the commission transfers net lottery proceeds to the Administrative Services Economic Development Fund established under ORS 461.540, the commission shall certify to the Oregon Department of Administrative Services the amount of such transfer that represents the net proceeds of sports betting games.

(3) The department shall transfer an amount equal to the net proceeds of sports betting games to the Employer Incentive Fund established under section 1, chapter 105, Oregon Laws 2018.

SECTION 45. The Legislative Assembly finds that a reduction of employer contributions required under the Public Employees Retirement System averts future tax increases that would otherwise be necessary to pay for such contributions, and that the use of lottery revenues under section 44 of this 2019 Act therefore promotes economic development.

SECTION 45a. Sections 44 and 45 of this 2019 Act are repealed on December 31, 2041.

EMPLOYER PROGRAMS

SECTION 46. Section 1, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 1. (1) The Employer Incentive Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Employer Incentive Fund shall be credited to the fund[, but]. Interest earned by the fund may [not] be used under section 2, chapter 105, Oregon Laws 2018, [of this 2018 Act] to match lump sum payments made under ORS 238.229.

(2) Moneys in the fund are continuously appropriated to the Public Employees Retirement Board

for the purposes described in sections 2 and 26, **chapter 105, Oregon Laws 2018** [of this 2018 Act].

(3) Moneys in the fund shall be invested in the Oregon Short Term Fund established under ORS 293.728.

SECTION 47. Section 2, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 2. (1)(a) The Public Employees Retirement Board shall establish a process for distributing the moneys in the Employer Incentive Fund established under section 1, **chapter 105, Oregon Laws 2018** [of this 2018 Act].

(b) The process must allow a participating public employer to apply to reserve matching amounts in the Employer Incentive Fund by committing to make a qualifying lump sum payment of at least \$25,000 to an account established under ORS 238.229.

(2) The board shall adopt rules establishing:

(a) The percentage of a lump sum payment that may be matched by distributions from the fund, not to exceed 25 percent of a qualifying lump sum payment.

(b) The maximum matching amount that may be reserved by a participating public employer, not to exceed the greater of:

(A) Five percent of the unfunded actuarial liability attributable to the employer, as determined in the most recent report prepared under ORS 238.605; or

(B) \$300,000.

(c) The qualifications for lump sum payments that may be matched under this section. [The qualifications must include the following requirements:]

[A] *The participating public employer must apply to reserve matching funds no later than December 31, 2019.*

[B] *The participating public employer must make the qualifying lump sum payment no later than July 1, 2023.*

[C], **including a requirement that** a qualifying lump sum payment may not be a payment from moneys borrowed by the employer.

(d) A requirement that the participating public employer participate in the Unfunded Actuarial Liability Resolution Program to develop a plan under section 26, **chapter 105, Oregon Laws 2018** [of this 2018 Act].

[(3)(a) *The board may begin accepting applications under subsection (1) of this section on the date on which the board determines that there are sufficient moneys in the Employer Incentive Fund.*]

[(b)] **(3)(a)** For [180] **90** days after the board begins accepting applications under subsection (1) of this section, a participating public employer may apply to reserve matching amounts from the Employer Incentive Fund under subsection (1) of this section only if the unfunded actuarial liability attributable to the employer, as determined in the most recent report prepared under ORS 238.605, is more than 200 percent of the employer's payroll for members of the Public Employees Retirement System.

[(c)] **(b)** After the [180-day] **90-day** period described in paragraph [(b)] **(a)** of this subsection, any participating public employer may apply to reserve matching funds from the Employer Incentive Fund under subsection (1) of this section.

(4)(a) The board shall approve applications that meet the qualifications established under subsection (2) of this section in the order in which the applications are submitted. The board shall continue approving applications as long as **adequate** moneys in the Employer Incentive Fund are **projected to become** available.

(b) After all of the moneys projected to become available in the Employer Incentive Fund are reserved for matching under paragraph (a) of this subsection, the board may establish a waiting list for the remaining timely submitted applications and, if sufficient moneys in the Employer Incentive Fund become available, shall approve, in the order in which the applications were submitted, applications that meet the qualifications established under subsection (2) of this section.

(5) The board shall transfer matching amounts approved under subsection (4) of this section from the Employer Incentive Fund to the approved employers' accounts established under ORS 238.229.

(6) The board may transfer moneys from the Employer Incentive Fund to the Public Employees Retirement Fund established under ORS 238.660 for crediting to the reserves for pension accounts and annuities as provided in ORS 238.670 (2).

(7) The board may use moneys in the Employer Incentive Fund for reasonable administrative costs incurred under this section.

SECTION 48. Section 3, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 3. (1) Section 2, **chapter 105, Oregon Laws 2018, as amended by section 47 of this 2019 Act, [of this 2018 Act]** is repealed [January 2, 2025] **July 1, 2042.**

(2)(a) The Employer Incentive Fund established under section 1, **chapter 105, Oregon Laws 2018, [of this 2018 Act]** is abolished on [January 2, 2025] **July 1, 2042.**

(b)(A) Except as provided in subparagraph (B) of this paragraph, the unexpended moneys remaining in the Employer Incentive Fund on [January 2, 2025] **July 1, 2042,** shall be transferred to the General Fund.

(B) The unexpended moneys remaining in the Employer Incentive Fund on July 1, 2042, that are attributable to sports betting games, as defined in ORS 461.010, shall be transferred to the Administrative Services Economic Development Fund.

SECTION 49. Section 13, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 13. (1) Not earlier than July 1 and not later than October 1 of the years 2019, 2021 and 2023, the division of the Oregon Department of Administrative

Services that serves as office of economic analysis shall:

(a) Calculate the rate of change in the tax liability from personal income taxes on taxable capital gains during the five preceding biennia; and

(b) Use the rate of change calculated under paragraph (a) of this subsection to forecast the tax liability from personal income taxes on taxable capital gains for the biennium beginning on July 1 of the year in which the calculation is made.

(2) Not later than November 1 of the odd-numbered year following each calculation under subsection (1) of this section, the Oregon Department of Administrative Services, in consultation with the Department of Revenue, shall estimate the tax liability from personal income taxes on taxable capital gains for the previous biennium.

(3) Not later than November 30 of the odd-numbered year in which the estimate is made under subsection (2) of this section, the Oregon Department of Administrative Services, in consultation with the Department of Revenue, shall determine whether the tax liability from personal income taxes on capital gains estimated under subsection (2) of this section, less any amount required to be returned to taxpayers under ORS 291.349, exceeds the tax liability from personal income taxes on taxable capital gains forecasted under subsection (1) of this section.

(4) Except as provided in subsection (5) of this section, **on the last business day of the odd-numbered year in which the estimate is made under subsection (2) of this section**, the Department of Revenue shall transfer an amount equal to 25 percent of any excess calculated under subsection (3) of this section to the School Districts Unfunded Liability Fund established in section 24, **chapter 105, Oregon Laws 2018** [of this 2018 Act].

(5) The Department of Revenue may not make a transfer under subsection (4) of this section if:

(a) The Legislative Assembly has appropriated moneys from the Oregon Rainy Day Fund under ORS 293.144 on or after [the effective date of this 2018 Act] **June 2, 2018**; or

(b) The Public Employees Retirement System is more than 90 percent funded as determined in accordance with rules adopted by the Public Employees Retirement Board.

(6) The Department of Revenue shall retain un-receipted revenue from the tax imposed under ORS chapter 316 in an amount necessary to make the transfer required under subsection (4) of this section. The department shall make the transfer out of the un-receipted revenue in lieu of paying the revenue over to the State Treasurer for deposit in the General Fund.

SECTION 50. Section 15, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 15. (1) Not earlier than July 1 and not later than October 1 of the years 2019, 2021 and 2023, the division of the Oregon Department of Administrative Services that serves as office of economic analysis shall:

(a) Calculate the rate of change in collections from estate taxes during the five preceding biennia; and

(b) Use the rate of change calculated under paragraph (a) of this subsection to forecast the collections from estate taxes for the biennium beginning on July 1 of the year in which the calculation is made.

(2) Not later than November 1 of the odd-numbered year following each calculation under subsection (1) of this section, the Oregon Department of Administrative Services, in consultation with the Department of Revenue, shall estimate the collections from estate taxes for the previous biennium.

(3) Not later than November 30 of the odd-numbered year in which the estimate is made under subsection (2) of this section, the Oregon Department of Administrative Services, in consultation with the Department of Revenue, shall determine whether the collections from estate taxes estimated under subsection (2) of this section exceed the collections from estate taxes forecasted under subsection (1) of this section.

(4) **On the last business day of the odd-numbered year in which the estimate is made under subsection (2) of this section**, the Department of Revenue shall transfer an amount equal to the amount of any excess calculated under subsection (3) of this section, less any amount required to be returned to taxpayers under ORS 291.349, to the School Districts Unfunded Liability Fund established in section 24, **chapter 105, Oregon Laws 2018** [of this 2018 Act].

(5) The Department of Revenue shall retain un-receipted revenue from estate taxes imposed under ORS 118.005 to 118.540 in an amount necessary to make the transfer required under subsection (4) of this section. The department shall make the transfer out of the un-receipted revenue in lieu of paying the revenue over to the State Treasurer for deposit in the General Fund.

SECTION 51. Section 24, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 24. (1) The School Districts Unfunded Liability Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the School Districts Unfunded Liability Fund shall be credited to the fund. The fund consists of moneys transferred to the fund under sections 12, 13, 15 and 22, **chapter 105, Oregon Laws 2018**, [of this 2018 Act] and other moneys transferred, allocated or appropriated to the fund.

(2) Moneys in the fund are continuously appropriated to the Public Employees Retirement Board for the purpose of establishing and funding a pooled account to be applied against the liabilities of participating public employers, as defined in ORS 238.005, that are school districts.

(3) **Moneys in the fund shall be invested in the Oregon Short Term Fund established under ORS 293.728.**

[(3)] (4) The board shall establish an account in the Public Employees Retirement Fund for the moneys in the School Districts Unfunded Liability Fund.

[(4)] (5) The board shall adopt rules providing for:

(a) Proportional distribution to school districts of the moneys in the account established under subsection [(3)] (4) of this section;

(b) Amortization of the moneys distributed; and

(c) Administration of the account established under subsection [(3)] (4) of this section in the same manner as accounts established under ORS 238.229 (2).

[(5)] (6) No later than February 1 of each odd-numbered year, the board shall report to the Oregon Department of Administrative Services and the Legislative Fiscal Officer an estimate of how moneys will be distributed under this section in the following biennium.

SECTION 52. The School Districts Unfunded Liability Fund established under section 24, chapter 105, Oregon Laws 2018, is abolished on July 1, 2042. The unexpended moneys remaining in the fund on July 1, 2042, shall be transferred to the General Fund.

SECTION 53. Section 29, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 29. Section 28 [of this 2018 Act], chapter 105, Oregon Laws 2018, is repealed on January 2, [2027] 2042.

SECTION 54. Section 26, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 26. (1) The Public Employees Retirement Board shall establish an Unfunded Actuarial Liability Resolution Program. Under the program, the board shall provide technical expertise to participating public employers in developing funding plans to improve the employers' funded status and to manage projected employer contribution rate changes. [Participating public employers are not required to participate in the program.] Funding plans developed under the program must be based on actuarial reports prepared under ORS 238.605.

(2) A participating public employer shall participate in the program.

[(2)] (3) The board may use moneys in the Employer Incentive Fund established in section 1 [of this 2018 Act], chapter 105, Oregon Laws 2018, for reasonable administrative costs incurred under this section.

SECTION 55. Section 26, chapter 105, Oregon Laws 2018, as amended by section 54 of this 2019 Act, is amended to read:

Sec. 26. (1) The Public Employees Retirement Board shall establish an Unfunded Actuarial Liability Resolution Program. Under the program, the board shall provide technical expertise to participating public employers in developing funding plans to improve the employers' funded status and to manage

projected employer contribution rate changes. Funding plans developed under the program must be based on actuarial reports prepared under ORS 238.605.

(2) A participating public employer shall participate in the program.

[(3)] The board may use moneys in the Employer Incentive Fund established in section 1, chapter 105, Oregon Laws 2018, for reasonable administrative costs incurred under this section.]

REPORTING

SECTION 56. Section 57 of this 2019 Act is added to and made a part of ORS chapter 238.

SECTION 57. At least 30 days before the Public Employees Retirement Board adopts changes to actuarial methods and assumptions used for purposes of the Public Employees Retirement System, the board shall submit a report to the Joint Committee on Ways and Means or the Joint Interim Committee on Ways and Means detailing the proposed changes and the associated, actuarially determined impact to the total liability of the system, the accrued liability of the system and employer contribution rates.

APPROPRIATION

SECTION 58. In addition to and not in lieu of any other appropriation, there is appropriated to the Public Employees Retirement Board, for the biennium beginning July 1, 2019, out of the General Fund, the amount of \$100,000,000, to be deposited in the Employer Incentive Fund established under section 1, chapter 105, Oregon Laws 2018.

SECTION 59. Notwithstanding any other law limiting expenditures, the amount of \$100,000,000 is established for the biennium beginning July 1, 2019, as the maximum limit for payment of expenses from the Employer Incentive Fund established under section 1, chapter 105, Oregon Laws 2018, by the Public Employees Retirement Board.

OPERATIVE DATES AND APPLICABILITY

SECTION 60. Operative date for provisions relating to employee pension stability contributions. (1) Section 3 of this 2019 Act and the amendments to ORS 238.105, 238.115, 238.265, 238.300, 238.305, 238.320, 238.325, 238.395, 238A.110, 238A.120, 238A.320, 238A.330, 238A.335, 238A.375, 238A.410, 243.800 and 341.551 by sections 1 and 4 to 19 of this 2019 Act become operative on July 1, 2020.

(2) The Public Employees Retirement Board may take any action before the operative date specified in subsection (1) of this section to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by section 3 of this 2019 Act and the amendments to ORS 238.105, 238.115, 238.265, 238.300, 238.305, 238.320, 238.325, 238.395, 238A.110, 238A.120, 238A.320, 238A.330, 238A.335, 238A.375, 238A.410, 243.800 and 341.551 by sections 1 and 4 to 19 of this 2019 Act.

SECTION 61. Applicability and operative date for provisions relating to lump sum payments. (1) The amendments to section 3b, chapter 105, Oregon Laws 2018, by section 20 of this 2019 Act apply to lump sum payments made before January 1, 2024.

(2) The amendments to section 3b, chapter 105, Oregon Laws 2018, by section 21 of this 2019 Act become operative on January 1, 2024.

SECTION 62. Operative date for provisions relating to final average salary. (1) The amendments to ORS 238.005, 238.580 and 238A.005 by sections 39 to 41 of this 2019 Act become operative on January 1, 2020.

(2) The Public Employees Retirement Board may take any action before the operative date specified in subsection (1) of this section to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by the amendments to ORS 238.005, 238.580 and 238A.005 by sections 39 to 41 of this 2019 Act.

SECTION 63. Operative date for certain provisions relating to proceeds of sports betting. The amendments to ORS 461.010 by section 42a of this 2019 Act become operative on July 1, 2042.

SECTION 64. Operative date for certain provisions relating to Employer Incentive Fund. The amendments to section 26, chapter 105, Oregon Laws 2018, by section 55 of this 2019 Act become operative on July 1, 2042.

REVIEW BY SUPREME COURT

SECTION 65. (1) Jurisdiction is conferred upon the Supreme Court to determine in the manner provided by this section whether this 2019 Act breaches any contract between members of the Public Employees Retirement System and their employers or violates any provision of the Oregon Constitution or of the United States Constitution, including but not limited to impairment of contract rights of members of the Public Employees Retirement System under Article I, section 21, of the Oregon Constitution,

or Article I, section 10, clause 1, of the United States Constitution.

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

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

(b) The petition must include the following:

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

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

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

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

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

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

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

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

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

CAPTIONS

SECTION 66. The unit and section captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

EMERGENCY CLAUSE

SECTION 67. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is de-

**clared to exist, and this 2019 Act takes effect on
its passage.**

Approved by the Governor June 11, 2019
Filed in the office of Secretary of State June 13, 2019
Effective date June 11, 2019
