

CROOK COUNTY WORK SESSION
203 NE COURT STREET, PRINEVILLE, OR
Tuesday January 14, 2020 at 9a.m.

*Requests to be placed on the Work Session agenda are
 due at 5 p.m. on Thursday before the Work Session*

Regular Work Session Items

	<i>Requester's Name</i>	<i>Matter</i>	<i>Docs? ✓</i>
1	Jerry Brummer	Republic Franchise Agreement w/Ryan Lawler of Republic Services – Republic to Sign Ordinance 316	✓
2	Sheriff	Vehicle Purchase for Sheriff's Office	✓
3	Shannon Dearth	In-House Therapy Dog	✓
4	John Eisler	Gov't Ethics Commission's Letter of Education re Grant County Surveyor	✓
5	Eric Blaine	SB 1049, PERS Hiring Fees	✓
6	Kim Barber	Department Head Performance Reviews	
7	Seth Crawford	Ky Rosenberg Request for Use of FG for Charity Rodeo Event	

Executive Work Session Items

	<i>Requester's Name</i>	<i>Matter</i>	<i>Docs? ✓</i>
Exec #1		NONE SCHEDULED	

Please provide advance notice for assistance to handicapped individuals by contacting the County Administration Office at 447-6555.

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IN THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CROOK

AN ORDINANCE AMENDING CROOK
COUNTY CODE CHAPTER 8.28 REGARDING
THE SOLID WASTE FRANCHISEE, AND
DECLARING AN EMERGENCY

ORDINANCE 316

WHEREAS, Crook County has established an exclusive solid waste collections franchise (codified as Chapter 8.28 of the Crook County Code), whereby the designated Franchisee is made the exclusive commercial hauler of solid waste within the unincorporated portion of Crook County, and the franchisee agrees to provide services to all County residents; and

WHEREAS, the current solid waste franchisee, Prineville Disposal, has informed the Crook County Court that it wishes to transfer the franchisee status to Allied Waste Transfer Services of Oregon, LLC, an Arizona limited liability company (dba Republic Services of Oregon); and

WHEREAS, Section 8.28.120 contains a scrivener's error, which warrants removal.

NOW, THEREFORE, the Crook County Court ordains as follows:

Section One: Section 8.28.060 of the Crook County Code is amended to replace the name of the Franchisee, deleting "Prineville Disposal, Inc." and inserting "Allied Waste Transfer Services of Oregon, LLC, dba Republic Services of Oregon." As amended, Section 8.28.060 will read:

Grant of exclusive franchise.

Except as provided in CCC 8.28.040, there is hereby granted to Allied Waste Transfer Services of Oregon, LLC, dba Republic Services of Oregon, the exclusive right, privilege, and franchise to provide service within the county, but not including the area within the city limits of the city of Prineville, as of the date of the ordinance codified in this chapter and any area that may hereafter be annexed to the county and, for that purpose, to utilize the roads and streets of the county.

Section Two: Section 8.28.120, subsection (2) is amended to read as follows, with the deletion in *[Italics]*.

(2) Following the one-year anniversary of the effective date of the ordinance codified in this chapter, and not less than annually thereafter, franchisee may increase each category of its maximum rates for service by a percentage not greater than *[the lesser of]* the last reported U.S. Consumer Price Index. Prior to implementing such rate increase, franchisee shall provide written notice to customers not less than 30 days before mailing billing statements or invoices utilizing

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the new rate's bills. Such notice shall clearly explain the relationship between the rate structure and relevant consumer price index. Prior to notifying customers of the rate increase, franchisee shall provide written notice to the county court of intent to increase rates in accordance with this section, and county court shall subsequently acknowledge such rate increase within 60 days of receipt in the form of an order of the county court.

Section Three: Section 8.28.120, subsection (3) is amended to read as follows, with the deletion in *[Italics]*.

(3) In the event franchisee wishes to increase maximum rates for service by a percentage greater than *[the lesser of]* the last reported U.S. Consumer Price Index, franchisee may by May 1st of each calendar year following the adoption of the ordinance codified in this chapter file an application for an adjustment in rates. In support, the franchisee shall provide the county court with all information deemed necessary by the county court with respect to the operations of franchisee in order to make a reasonable and rational decision on the application. In a scheduled public hearing, the county shall act upon such request for rate adjustment no later than 60 days following receipt of request for adjustment. The new rate increase or decrease will begin 30 days following conclusion of the hearing if approval is granted for a rate change. Rates shall be changed by order of the county court.

Section Four: If any portion of this Ordinance 316 is found by a court of competent jurisdiction to be invalid, all other portions of this Ordinance will remain in full force and effect.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

Section Five: Emergency Clause. This Ordinance 316 being necessary for the health, safety, and welfare of the people of Crook County, an emergency is declared to exist, and Ordinance 316 becomes effective immediately upon the second reading.

First Reading: January 8, 2020

Second Reading: January 22, 2020

DATED this 22nd of January 2020.

CROOK COUNTY COURT

Judge Seth Crawford

Commissioner Jerry Brummer

Commissioner Brian Barney

<u>Vote:</u>	Aye	Nay	Abstain	Excused
Seth Crawford	_____	_____	_____	_____
Jerry Brummer	_____	_____	_____	_____
Brian Barney	_____	_____	_____	_____

Accepted by Allied Waste Transfer Services of Oregon, LLC, dba Republic Services of Oregon:

Signature: _____

Print Name and Title: _____

Date: _____

Acknowledged by Holliday Enterprises, LLC, dba Prineville Disposal

Signature: _____

Print Name and Title: _____

Date: _____



Judge Crawford
Commissioner Brummer
Commissioner Barney

January 14, 2020

Request to Purchase Sheriff's Vehicle

Crook County Community Corrections has funding to hire another Parole and Probation Deputy in the very near future. They are in need of a third vehicle to do home visits and to transport clients to jail when that is required. Their vehicles are not used for normal police operations and, therefore they typically use older police vehicles that are no longer in use by patrol for this function.

As you are aware last year I purchased a used Dodge Charger that I have been driving. This vehicle has less than 70,000 miles on it. However, it has not proven to work well for the needs that the Sheriff has for winter driving. I make numerous trips over the mountain to meetings and such that is required of me as Sheriff. It is also not very functionable for accessing the many rural roads in the county that can be difficult to maneuver in due to the low clearance of the vehicle. We knew that might be an issue at the time of purchase, however the purchase price of the vehicle made it a deal that we could not pass up at the time.

Director Lind has in his current year budget funding to purchase a vehicle. The Sheriff's Office vehicle fund does not have enough funds to purchase the needed vehicle. After talking with Director Lind, we have agreed to give the Dodge Charger to Community Corrections and he has agreed to use the vehicle funds in his budget to go toward the purchase of a vehicle to be used by the Sheriff's Office for the Sheriff.

The Sheriff's Office and Crook County Counsel have been working on a deal to lease other vehicles for the Sheriff's Office. This vehicle would be in addition to the other vehicles. However, during that process we have already received bids from three different vehicle manufacturers which we are including with this request. Three bids were under the state contract and were with Gresham Ford for \$39,074, Landmark Ford for \$37,799, and Power Ford for \$38,236. The Gresham Ford cost is higher because they would upgrade the tires to what we had requested and the other vendors would not.

In addition to the tree quotes above, we also got a quote from our local Dealership at Robberson Ford. Their quote, with the tires we needed was \$39,174. This is just \$100 higher than the Gresham Ford quote and they are our local vendor who does our vehicle maintenance, and have been a great partner in the past.

During the gathering of quotes for upfitting the vehicles we are looking to lease, we attempted to gather three quotes, however we only received two. Day Wireless submitted a quote and Wire Works. Based on those quotes, Day Wireless was the best choice for our needs and therefore, we would recommend using Day Wireless to upfit this vehicle as well.



Here is the breakdown of the vehicle we are looking to purchase along with the upfitting:

2020 Ford Expedition 4 door 4X4 XL (UIG)	\$39,174.45
Upfit	\$10,289.48
Total Cost	<u>\$49,463.93</u>

Here is the payment plan

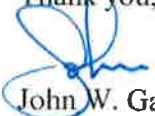
Community Corrections vehicle budget	\$30,000.00
Crook County Sheriff's Office Vehicle Fund	\$15,000.00
Emergency Management Unexpected Re-imburement	\$4463.93
	<u>\$49,463.93</u>

We have the funding to purchase this vehicle outright and is in addition to the vehicles that we are attempting to lease at this time.

We are requesting to use our local Ford Dealership, Robberson Ford, for the purchase of this vehicle as their quote is only \$100 above the state bid with Gresham Ford.

I ask that we be able to progress with this order as soon as possible.

Thank you,


John W. Gautney
Sheriff

Michael Ryan

From: Michael Ryan
Sent: Friday, December 06, 2019 10:26 AM
To: Stephanie Wilson (Stephanie.Wilson@crookcountysheriff.org)
Subject: FW: RFQ Analysis - Vehicles and Upfit

Expect new number sheet from Ed. Actual amount of request is \$340,053. New quote request and doc from Sharon to follow. Mike

RFQ FINDINGS

Vehicles based on 3 state contracts from Ford Dealers:

Gresham Ford Contract: 5551	Landmark Ford Contract: 5550	Power Ford Contract: 5548
Expedition XL (U16) \$39,074* w/o Tires (-\$980) \$38,990	Expedition XL (U16) \$37,799	Expedition XL (U16) \$38,236

F150 Pickup (W1) \$33,931* w/o Tires (-\$980) \$32,951	F150 Pickup (W1) \$33,436 * = Not bid	F150 Pickup (W1) \$33,383 * = Not bid

" * " = Requested option " BF Goodrich A/T T/A KO2 10ply Tires \$980.00

Upfit based on two vendors:

Day Wireless Additions)	Wire Works	LEHR Auto (Formerly Auto
Expedition XL (U16) \$20,928 F150 Pickup (W16) \$18,612 # = Local Shop f/ Repairs	Expedition XL (U16) \$20,513 F150 Pickup (W16) \$19,034 # = Shop in Salem	No Bid Received No Bid Received

Summary by Selected Vendor

3ea Expeditions	\$117,222.
3ea F150	\$101,793.
3ea Expeditions Upfit	\$ 62,784.
3ea F150 Upfit	\$ 55,836.

\$340,053.00 Lease amount for vehicles and upfit. (337,635.00)

One note: The original financed amount was \$347,895.00 (see attached) this amount was reduced by fine tuning the request and removing some of the radio equipment.
Mike

Prepared for: Michael Ryan, Crook County Sheriff Office

Office: 541-921-7448

Email: michael.ryan@crookcountysheriff.org

Ordering FIN Code: QP798

End User FIN Code: QP798

2020 Expedition 4dr 4x4 XL (U1G)

Price Level: 15



Client Proposal

Prepared by:

Matt Schmitz

Office: 541-280-3105

Quote ID: 49146

Date: 01/07/2020



Robberson Ford | 2100 N. E. Third St, Bend, Oregon, 977013692
Office: 541-382-4521 | Fax: 541-388-4035

Prepared for: Michael Ryan

Crook County Sheriff Office

Prepared by: Matt Schmitz

01/07/2020



Robberson Ford | 2100 N. E. Third St Bend Oregon | 977013692

2020 Expedition 4dr 4x4 XL (U1G)

Price Level: 15 | Quote ID: 49146

As Configured Vehicle

Code	Description	MSRP
Base Vehicle		
U1G	Base Vehicle Price (U1G)	\$51,990.00
Packages		
102A	Equipment Group 102A SSV <i>Includes:</i> - Engine: 3.5L EcoBoost V6 - Includes auto start-stop technology. - Transmission: 10-Speed Automatic w/SelectShift - Electronic Limited Slip w/3.73 Axle Ratio - GVWR: 7,450 lbs - Tires: P265/70R17 AT OWL - Wheels: 17" Steel - Cloth Front Captain's Chairs - 5-passenger seating. Includes 8-way power driver seat with manual recline and power lumbar and 2-way manual passenger seat. - Radio: AM/FM Stereo w/MP3 Capable - Includes speed-compensated volume and 6 speakers. - SYNC Communications & Entertainment System - Includes enhanced voice recognition, 911 Assist, 4.2" LCD screen in center stack, AppLink and (1) smart charging USB port in media hub. - Column Shifter - Vinyl Floor Covering - Vinyl 2nd Row Seating - Skid Plates - Includes fuel tank underbody protection. - Center Console Delete - Deletes armrest and storage bin with lid - Running Board Delete	-\$2,080.00
Powertrain		
99T	Engine: 3.5L EcoBoost V6 <i>Includes auto start-stop technology.</i>	Included
44U	Transmission: 10-Speed Automatic w/SelectShift	Included
X3L	Electronic Limited Slip w/3.73 Axle Ratio	Included
STDGV	GVWR: 7,450 lbs	Included
Wheels & Tires		
NONTR	Tires: P265/70R17 AT OWL	Included
NONWL	Wheels: 17" Steel	Included
Seats & Seat Trim		
L	Cloth Front Captain's Chairs	Included

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Michael Ryan

Crook County Sheriff Office

Prepared by: Matt Schmitz

01/07/2020



Robberson Ford | 2100 N. E. Third St Bend Oregon | 977013692

2020 Expedition 4dr 4x4 XL (U1G)

Price Level: 15 | Quote ID: 49146

As Configured Vehicle (cont'd)

Code	Description	MSRP
<i>5-passenger seating. Includes 8-way power driver seat with manual recline and power lumbar and 2-way manual passenger seat.</i>		
Other Options		
PAINT	Monotone Paint Application	STD
122WB	122" Wheelbase	STD
STDRD	Radio: AM/FM Stereo w/MP3 Capable <i>Includes speed-compensated volume and 6 speakers. Includes: - SYNC Communications & Entertainment System Includes enhanced voice recognition, 911 Assist, 4.2" LCD screen in center stack, AppLink and (1) smart charging USB port in media hub.</i>	Included
Emissions		
425	50 States Emissions System	STD
Interior Colors		
LH_01	Ebony	N/C
Primary Colors		
YZ_01	Oxford White	N/C
Upfit Options		
BFG 2	BF Goodrich A/T Ko2 Tires	\$1,073.20
SUBTOTAL		\$50,983.20
Destination Charge		\$1,395.00
TOTAL		\$52,378.20

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Prepared for: Michael Ryan

Crook County Sheriff Office

Prepared by: Matt Schmitz

01/07/2020



Robberson Ford | 2100 N. E. Third St Bend Oregon | 977013692

2020 Expedition 4dr 4x4 XL (U1G)

Price Level: 15 | Quote ID: 49146

Pricing Summary - Single Vehicle

		MSRP
<i>Vehicle Pricing</i>		\$52,378.20
<i>Discount Adjustments</i>		-\$13,541.63
Subtotal		\$38,836.57
<i>Sales Taxes</i>		
Code	Description	
CAT	Corporate Activity Tax	\$143.70
Oregon Tax	Oregon Privilege Tax	\$194.18
Total		\$39,174.45

Customer Signature

Acceptance Date

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.



DAY
WIRELESS SYSTEMS
 2240 Judson St SE
 Salem, OR 97302
 541.797.3085
tcox@daywireless.com

Quote

Quote # CCSO 20Expedition-13
 Date: 11/12/2019
 Expiration Date: 2/10/2020

To: Crook County Sheriff

Mike Ryan
michael.rvan@crookcountysheriff.org
 541-921-7448

Day Wireless Contact		Project Name	Payment Terms	
Todd Cox		Crook Co SO 20Expedition	Net 30	
Parts & Materials				
QTY	Description	Price	Extended Price	
VEHICLE POWER				
1	FORD EXPEDITION POWER PANEL- 60MIN TIMER ON IGN- MOUNTED UNDER SEAT IN CAB	\$500.00	\$500.00	
1	6 CIRCUIT FUSE BLOCK- PWR HOT	\$0.00	\$0.00	
1	12 CIRCUIT FUSE BLOCK- TIMED	\$0.00	\$0.00	
1	120A RELAY/ TIMER	\$0.00	\$0.00	
1	150A TYPE III BREAKER	\$0.00	\$0.00	
FRONT FACING LIGHTS				
2	UC LED INSERTS IN HEADLIGHTS	\$66.50	\$133.00	
1	FORD HEADLIGHT FLASHER- WIG WAG	\$42.00	\$42.00	
SIDE FACING LIGHTS				
1	INTERSECTOR UNDER MIRROR LIGHT (RED/WHT)- DRIVER SIDE- WHT FOR SCENE	\$149.00	\$149.00	
1	INTERSECTOR UNDER MIRROR LIGHT (BLU/WHT)- DRIVER SIDE- WHT FOR SCENE	\$149.00	\$149.00	
2	90DEG MPOWER LED LIGHT BRACKET	\$11.88	\$23.76	
2	MPOWER 4" LED LIGHT (RED/BLU) AT C PILLAR	\$98.00	\$196.00	
REAR FACING LIGHTS				
2	UC LED INSERTS IN REVERSE HOUSING (BLU)	\$66.50	\$133.00	
2	MPOWER 4" LED LICENSE PLATE LIGHTS (RED/BLU)	\$98.00	\$196.00	
2	MPOWER 4" LED LIGHTS (RED/BLU) TOP EXTERIOR REAR WINDOW	\$98.00	\$196.00	
2	REAR GLASS EXTERIOR MPOWER BRACKET	\$11.88	\$23.76	
EXTERIOR EQUIPMENT				
1	SIREN SPEAKER	\$118.75	\$118.75	
1	PB450 PUSH BUMPER- MPOWER LED- RED/WHT DRIVER, BLU/WHT PASS	\$876.83	\$876.83	
OFFICER AREA				
1	SLOPED CONSOLE WITH CUP HOLDER, ARMREST AND MONGOOSE	\$641.93	\$641.93	

1	FORD F-150 CONSOLE LEG KIT	\$130.95	\$130.95
1	UNIVERSAL FLOOR PLATE- LONG	\$68.18	\$68.18
1	*CUSTOMER PROVIDED* GETAC A140 TABLET AND KEYBOARD	\$0.00	\$0.00
1	LOW PROFILE QUICK RELEASE KEYBOARD TRAY	\$113.40	\$113.40
1	GETAC A140 TABLET DOCKING STATION WITH 120W AUTO POWER	\$955.43	\$955.43
1	2015+ FORD F150 CLOSE-TO-DASH MOUNT	\$188.33	\$188.33
1	3 ACCESSORY OUTLET BOX 12V	\$19.68	\$19.68
4	EQUIPMENT FACEPLATES	\$45.00	\$180.00
1	RED/WHT LED DOME LIGHT	\$45.00	\$45.00
1	MAGNETIC MIC KIT	\$26.25	\$26.25
1	PELICAN 8060 LED FLASHLIGHT	\$162.18	\$162.18
COMMUNICATIONS EQUIPMENT			
3	COAX LINE KIT	\$16.27	\$48.81
3	*CUSTOMER PROVIDED* MOTOROLA APX8500 RADIO	\$0.00	\$0.00
2	SHARK FIN ANTENNA 2G/3G/4G/WIFI/GPS	\$200.01	\$400.02
1	COMPACT TRIBAND VHF/UHF/7/800MHZ WHIP	\$52.00	\$52.00
1	*CUSTOMER PROVIDED* CRADLE POINT MODEM	\$0.00	\$0.00
WEAPONS MOUNT			
1	DUAL T-RAIL MOUNT 1 SMALL (SHOTGUN) 1 UNIVERSAL XL (RIFLE), HANDCUFF KEY OVERRIDE	\$345.71	\$345.71
1	T-RAIL XL UNIVERSAL LOCK ATTACHMENT BRACKET FOR OPTICS	\$14.96	\$14.96
MISC EQUIPMENT			
CAMERA SYSTEM			
CONTROLS			
1	PARK KILL MODULE	\$43.20	\$43.20
1	CENTRAL CONTROLLER 3.0	\$318.50	\$318.50
1	BLUEPRINT LINK	\$246.00	\$246.00
1	480A 100W SIREN AMP	\$267.00	\$267.00
1	REMOTE CONTROL HEAD, ROTARY KNOB CONTROLS	\$142.50	\$142.50
1	15' HARNESS FOR CENTRAL CONTROLLER	\$100.00	\$100.00
8	12V 30A RELAYS FOR BLACKOUT	\$3.10	\$24.80
CARGO AREA			
1	CARGO BOX- TOP SLIDER, BASE DRAWER COMBO LOCK	\$1,101.71	\$1,101.71
1	CARGO RADIO TRAY	\$306.34	\$306.34
Equipment Total:			\$8,679.98
			6,395.10
Labor			
Description of Work		Total	
LABOR			
INSTALLATION OF EQUIPMENT		\$3,526.25	
Labor Total:		\$3,526.25	
Other Expenses			
Description		Total	
EQUIPMENT SHIPPING		\$217.00	
SHOP SUPPLIES		\$151.13	

Other Total:

Grand Total: ~~\$12,574.36~~
10,289.48

Notes

\$ 10,289.48

Customer Responsibilities

Quotation for goods and services named.
To Accept this quotation, sign here and return:

Date:

Thank you for your Business

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Crook County Veterans Services

422 NW Beaver St.
Prineville, OR 97754
(541) 447-5304 Office
(541) 447-7505 Fax

December 30, 2019

RE: In-House Therapy Dog for Veteran Services

Judge Crawford and Distinguished Commissioners:

Our office is dedicated to helping provide Veterans with the highest level of service in our community. A majority of our day-to-day duties involve discussing difficult and emotional subjects with our Veterans, to include but not limited to; recent death of a spouse or loved one, terminal medical diagnosis, and severe mental health conditions. We are always looking to improve the tools we use to help Veterans, often under difficult circumstances.

I am requesting the use of my dog as a Certified Therapy Dog, to assist in the most difficult moments of our work. Lily is a 5 year old female Labrador Retriever. I have trained her for both obedience and commands as a Therapy Dog and she is a Certified Therapy Dog under Alliance of Therapy Dogs, I have attached the guidelines of her certification. Under this certification Liability Insurance is provided with my annual membership, which is also attached.

The office will be properly marked to indicate the presence of a Therapy Dog on days she is present. Our office will work to inform our community of the days in which a Therapy Dog will be present in order to accommodate all of our veterans and their families.

Thank You!



Erik Nelson
Assistant VSO
Crook County Veterans Services
422 NW Beaver Street
Prineville, OR 97754
(541) 447-5304

“VETS FIRST”

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sharing smiles and joy™

Alliance of Therapy Dogs
P.O. Box 20227, Cheyenne, WY 82003
1-307-432-0272, 1-877-843-7364
.1-307-638-2079 (fax)
office@therapydogs.com
www.therapydogs.com

Dear Friend,

Thank you for your interest in membership with Alliance of Therapy Dogs (ATD). Qualifications for ATD begin with a friendly dog, any breed or mix, and an owner/handler who has a desire to share their dog with those who are no longer able to own a pet or are in a health facility separated or away from their pets. Dogs must be at least one year of age to be tested and observed.

Our process begins with a background check. Given the world today, our focus must be on the safety of our clients and the facilities we visit. These background checks also ensure that we can keep our insurance premiums low and, thus, keep your yearly fees low.

Once you have completed your background check, you can test with one of our Tester/Observers in your area. This test includes basic handling skills first, and if you and your dog pass, you move to the next step of three supervised visits.

Upon successful completion, the following must be submitted for review and processing for membership:

- ✓ Proof that you have successfully completed the Sterling Volunteers background check
- ✓ Completed Member Application and ATD Test (including observations)
- ✓ Release of Claims form
- ✓ Completed Health Verification Form **OR**
Proof of current rabies vaccination or rabies titer of 0.5 or greater within two years AND
Proof of negative fecal within 12 months AND
Proof of physical exam within 12 months
- ✓ Signed Rules Review
- ✓ Correct Membership Fee

All these items must be completed and returned together to process your membership in a timely manner.

You must bring the items above to your initial test that you have scheduled with the Tester/Observer. In addition, please also bring:

- ✓ Four foot or shorter leash and ATD approved collar (see ATD Member Guidelines)
- ✓ Water for dog (have available)
- ✓ Bag for clean-up (have available)
- ✓ Paper towels or towel (have available)

The application, test and copy of our guidelines are enclosed. A list of the Tester/Observers in your area, the link to begin the background check, and additional information, presentations, and forms are on our website: www.therapydogs.com.

We look forward to hearing from you!

YOUR BACKGROUND CHECK

As a Volunteer organization, we care about our program and the quality of the individuals who help us. ATD requires a background check for all prospective members, except junior member applicants, prior to being tested.

ATD feels it is an important process to assure we are bringing in members who are trustworthy. It is becoming a norm in our society to have volunteers go through a background check. It will provide the facilities we visit with a sense of comfort that our volunteers have been properly screened. Background checks prior to testing will also help to keep our insurance premiums low and, thus, keep your yearly fees low.

ATD has selected Sterling Volunteers to run the background checks on our volunteers. All information about the process is on our website, www.therapydogs.com. The cost for the background check is \$20.00, which also allows you to share the results with other organizations. The first share with one other organization is free.

When you complete the process, ATD will look over the results and notify you when you can begin the testing process. You will be sent a letter/email to present to the T/O who will be testing you and your dogs.

You can complete your background check from the ATD website: www.therapydogs.com. Here are the steps:

- Go to www.therapydogs.com
- Click on **Join**
- Select **Be a Member**
- Scroll down and select **Begin your Background Check**
- Follow the directions to provide the necessary information to run the background check.

If you do not have computer access, please contact the office at 307-432-0272 or 877-843-7364.

Once the background check is completed, you will receive an email/letter confirming your eligibility to take the ATD test. You may then contact a Tester/Observer to begin the testing process. If, after one week, you do not receive emails confirming your application and then informing you of your eligibility status, check your computer's spam/junk mail folder.

If you still cannot find/did not receive the email, you may present to the Tester/Observer a printout of the "Confidential Background Check Report" (click the badge on your Sterling Volunteer page to access) or the first page of the background check itself.

If there is any concern about the background check, you will be contacted by ATD for additional information.

Alliance of Therapy Dogs

Mission Statement

Alliance of Therapy Dogs (ATD) is an international registry of certified therapy dog teams. We provide testing, certification, registration, support, and insurance for members who volunteer with their dogs in animal assisted activities. Our objective is to form a network of caring individuals and their special dogs who share smiles and joy with people, young and old alike.

NOTE:

The Merriam-Webster Dictionary defines certify as “to recognize as having met special qualifications in a field.” In the past, ATD has only used the term registration. The quality of our testing processes and the services we offer our members support the use of the term certification (as defined above), and is now reflected in our mission statement.



1557 South Street
Wheatland, WY 82201
Office 307-322-9129
Fax 307-322-2426

Woolington Agency LLC

To: Alliance of Therapy Dogs Members

From: Will de Ryk, Agent
Woolington Agency LLC

Date: April 1, 2018

I'm pleased to offer Alliance of Therapy Dogs an insurance policy that provides coverage to members in good standing.

The policy provides liability insurance that protects you from claims of others for injury or illness and property damage resulting from therapeutic visitation with your dog. This coverage does not protect you or your dog from injury or illness as a result of participation.

Policy Information

- Commercial General Liability Occurrence Form
- Excess Liability Occurrence Form
- \$5,000,000 Per Occurrence
- \$5,000,000 Aggregate
- \$5,000 Deductible Each Occurrence for Bodily Injury and Property Damage
- Defense Costs are Included Within the Limit of Liability
- Includes All Dog Breeds

The coverage pertains to registered handlers and dogs at therapeutic visits while representing Alliance of Therapy Dogs. Events can be held in all 50 states, U.S. territories and possessions, Puerto Rico and Canada. The intent of the policy is to cover Alliance of Therapy Dogs members while doing their volunteer pet therapy visits. Coverage is not extended to visits, contact, or activities that are a part of a member's employment or unrelated to Alliance of Therapy Dogs.

In order to answer specific questions regarding covered activities, please refer to the Member Guidelines. Alliance of Therapy Dogs further defines "therapeutic contact" as petting, brushing, holding, throwing, fetching and walking. If you are unsure if an activity meets these guidelines, please contact the Alliance of Therapy Dogs corporate office for clarification. To protect your rights to coverage, all guidelines must be followed. Coverage is not provided for damages caused by intentional acts or as a result of an Alliance of Therapy Dogs member acting outside the scope of, or not in compliance with, the Alliance of Therapy Dogs rules and regulations, Part I, II and III. Both the dog and handler must be registered and dues current. Exception to any guidelines may only be authorized in writing by the Alliance of Therapy Dogs Board of Directors.

I sincerely hope you enjoy your therapy visits. Please be confident that the Alliance of Therapy Dogs Board of Directors and I are committed to providing a quality insurance program at the lowest cost possible.

I know you are very important to those individuals you visit.

Sincerely,

Will de Ryk, Agent
Woolington Agency LLC

A Brief History of Alliance of Therapy Dogs

- **1990** – Therapy Dogs Incorporated registered as a non-profit in Wyoming with approximately 10 Tester/Observers and 500 members. Therapy Dogs Inc. was founded by Jack and Ann Butrick; Jack was the first president.
- **1991** – The first news magazine was published and the original logo was unveiled.
- **1992** – Jack Butrick passed away, Ann became the executive director and ran the day-to-day operations with the help of one volunteer (Billie Smith) out of Ann's house. Teri Meadows became the second president of Therapy Dogs Inc.
- **1998** – The day-to-day operations of Therapy Dogs Inc. moved into an office in Cheyenne, Wyoming. Therapy Dogs Inc. grew to approximately 1200 members. Therapy Dogs Inc.'s first employee, Billie Smith, was hired as office manager.
- **2002** – Therapy Dogs Inc. membership grew to approximately 5,000 members.
- **2003** – The first news magazine was published in color.
- **2005** – The first Tester/Observer written review.
- **2007** – The collar/tag logo was filed for trademark protection.
- **2008** – The Therapy Dogs Inc. office moved into its current building.
- **2009** – Therapy Dogs Inc. membership grew to approximately 10,000 members. The office transitioned from paper to digital records.
- **2010** – Because of an electrical fire in the office, a temporary office was set up for three months until the staff could move back in. Billie Smith was named Executive Director.
- **2012** – Teri Meadows retired and Jane Hirsch became the third Therapy Dogs Inc. president.
- **2013** – Online renewal process and member portal launched.
- **2015** – Therapy Dogs Inc. changed its name to Alliance of Therapy Dogs. First written member review. Alliance of Therapy Dogs membership grew to approximately 15,000 members.
- **2016** – Jane Hirsch retired and Pat Coglianesse became the fourth president.
- **2017** – ATD launched its new website.

Alliance of Therapy Dogs

HELPFUL HINTS & TIPS

1. **Is it a good fit?** If possible, it's a good idea for an interested applicant to observe an ATD handler/dog team during a facility visit before undergoing the ATD Test. This is an opportunity for applicants to get an idea of what the facilities are like and to better evaluate if this will be a positive experience for their dogs and for them. It might be helpful to discuss with the T/O which locations might be best suited for you at your current level of experience.
2. **Proof of good health and vaccinations:** Remember to take written proof of the dog's vaccination records to have them readily available at each visit, either in the car or on your person. Some facilities will ask to see and make a copy of such papers for their own records. It is not only handy, but rather impressive, when you can hand them a neat, tidy and organized notebook or envelope. Staff will appreciate that you clearly have your act together, making you and your dog a welcomed volunteer team.
3. **Self and dog health check:** Handlers should evaluate their dogs' health and attitude, as well as their own, prior to every visit.
4. **Olfactory sensitivity:** Avoid using perfumes, colognes, and other scented oils on both the handler and the dog. Handlers want to look and smell their best when taking their dogs to visit, but it is also important to remember some individuals may have severe allergies to these products. Handlers who smoke or are exposed to smokers should minimize their smoke exposure before entering a facility. Never try to cover smoke or other odors with perfume or scented oils. Therapy dog teams are the visitors and must be cognizant of the comfort of those being visited.
5. **Dogs allowed? No dogs allowed?** While visiting with your dog in a facility, know the areas where you and your dog are allowed and welcomed. Always check in at the nurse's station so everyone is aware of you and your special therapy dog.
6. **Doggy accidents:** Always clean up after your dog, both inside and outside of the facility. Ask where there is a safe, outside location in which you may walk or rest your dog. Never leave any traces of your dog after a visit.
7. **Different flooring:** ATD strongly recommends that your dog become accustomed to walking on a variety of different surfaces. Always consider the footing before asking your dog to perform tricks or moves.
8. **Shhhhh – and smile:** Give your verbal commands quietly. Always praise your dog for his/her exemplary behavior.
9. **Water for your dog:** Keep your dog well hydrated. Bring water and bowl. Folding fabric or plastic bowls are perfect for taking along on visits.
10. **Dog treats:** Although treats are often used during visits, ATD advises against allowing patients or residents to give treats to your dog. Many different types of dog treats are available today. ATD

advises against the use of dog treats that contain peanuts due to the risk that these treats might pose to people with peanut allergies.

- 11. Expect encounters with other dogs and animals:** Be aware that some facilities have their own pets or may allow visiting family pets. Residents may have their own pets as well. These animals may not behave in the same manner as a therapy dog. You may want to find out if there is a visiting time set aside for family pets and try to avoid visiting during that time.
- 12. Respect the dog's space:** Do not let your dog stare (even from a distance) at another dog as this can be a threatening signal to other dogs. Never allow your dog to approach a person's lap or bed when another dog is already there. Take extra precautions in doorways, elevators or any tight confined areas.
- 13. How is your dog really feeling?** Be alert to signs of stress in your dog and yourself. Monitor the body language of your dog for signs of stress, including, but not limited to:
 - Excessive panting
 - Jumping or climbing on you for security
 - Hiding behind you
 - Shaking or developing tremors in the body or legs
 - Pressing the ears and tail close to the body
 - Yawning or changing facial expressions
 - Looking for an escape route or doorway
 - Refusing to socialize
- 14. Dogs need holidays, too:** Taking a few weeks off may be well deserved and can make a difference in the quality of future visits.
- 15. Dogs can say "no:"** Never force your dog to interact with a patient or any patient to interact with your dog. This should be a pleasant experience for you, your dog, and the patient or resident.
- 16. Visiting a room:** Always knock first before entering a patient's room. Ask if s/he would like a visit from your special dog. Never awaken sleeping patients. If the patient is having a meal in the room and wants to visit, excuse yourself and offer to return when s/he has finished the meal.
- 17. Warning signs:** Read and obey all warning signs on room doors, such as "ISOLATION" or "INFECTIOUS, DO NOT ENTER," or "SEE NURSE BEFORE ENTERING." This is important for the patient, your dog, and you.
- 18. What's on the floor?** Be aware of pills, food, or other items on the floor. It is a good idea not to let your dog pick up or even sniff anything, including a treat, that has been dropped on the floor. Keep your dog away from trash containers. A good command to teach your dog is "Leave it!" Avoid areas where cleaning chemicals were recently used.
- 19. Doggy paws and licks:** Always try to hold or guide a resident's exuberant and/or clumsy hand toward your dog for petting as reassurance for both your dog and the person. Remember to hold your dog's paws so the nails do not touch the fragile skin of a patient or resident. If your dog licks,

be aware that not all patients, residents, or staff like this. Never allow your dog to lick someone's face. Watch for the patient who will grab ears, the tail, or the leash. Be ready to protect your dog.

20. **Wheelchair safety:** Be sure all wheelchair wheels are locked before you bring your dog up to them. You may find it easier to approach someone in a wheelchair from the side.
21. **Facility's rules:** Be sure you are familiar with all rules and regulations in each facility. If these rules are unclear, ask a staff member or activities director to explain them to you. Ask for a copy of the facility's required protocol for volunteers. Some facilities may have their own pet therapy program and their own testing procedures that are required before you may participate in their program.
22. **Visiting at Home:** If you are visiting someone in his/her home, there are a few additional steps to take. All ATD rules, regulations, and policies apply as they would for any other scheduled ATD visit. In addition:
 - Ask if there are any pets in the house and, if there are, please have them in another room away from the patient.
 - Request that there be a caregiver, family member, or friend there with the patient when you visit.
 - Don't go alone on the first visit. There are teams that go two at a time to home visits. If that is not an option, then obtain permission to take another adult with you. This person does not have to be an ATD member, just someone you are comfortable with to be an extra set of eyes and ears, such as a spouse, friend, or family member.
23. **What if YOU have an emergency?** Emergencies happen when we least expect them. Remember, dogs are not allowed in ambulances. You need a plan. Just as you have ICE (In Case of Emergency) numbers in your cellphone, also program in an "ICE for Dog." Whether or not you carry a cellphone, you can keep your dog emergency numbers on a card in your wallet next to your ATD membership card, or with any facility's ID badge that you wear. Be sure others are aware of this and include your vet's number. Without this information, should you suffer an emergency, the institution may have no other choice than to call animal control to come and care for your dog. Be prepared!

We hope you have found these Hints and Tips helpful in your visits with your special dog.
May you find endless happiness in every step you take and in everything you do.

“SHARING SMILES AND JOY”
Alliance of Therapy Dogs

ALLIANCE OF THERAPY DOGS RULES AND REGULATIONS
Part I
GOVERNING MEMBER GUIDELINES

Failure to adhere to the ATD Governing Member Guidelines, Code of Ethics, or Policies will jeopardize your membership.

I. The organization:

1. **ATD** is a non-profit, all-volunteer organization. We do not accept monetary reimbursement for any of the services our members provide. Donations are welcome. All requests to use the registered ATD name or logo and slogan must be submitted in writing to the president. The requestor will be notified in writing whether or not permission is granted.
2. **Membership is a privilege**, not a right, granted by the ATD Board of Directors through the various committees appointed to represent and protect the interests and safety of the organization.
3. **Annual review:** Members must pass an annual member review which shows their familiarity with the ATD rules. Renewals will not be finalized until 100% accuracy is achieved.

II. Description of therapy work; requirements for members and dogs:

4. **Members:** Any person aged 18 or older may be tested with a dog and apply for membership. Anyone aged 12 through 17 may be tested with a dog to become a junior member.
5. **Dogs:** Any breed or mixed breed of dog, aged one year or older, may be tested with a handler to become a certified therapy dog. For insurance reasons, ATD cannot certify wolves or wolf-hybrids or coyotes or coyote-hybrids because the rabies vaccination has not been proven to be effective with these animals.
6. **Handler/Dog teams only:** ATD certifies only handler/dog teams. A prospective member or current member testing with a new dog must own or have had a close relationship with the dog for a minimum of six months before testing. ATD does not certify, register, or train dogs to be guide dogs, hearing dogs, or any other type of service dogs.
7. **Therapy dog functions, insurance, and red heart tag:** ATD provides liability insurance that protects you from claims of others for injury, illness, and property damage resulting from therapeutic visitation with your dog. This coverage does not protect you or your dog from injury or illness as a result of participation in this program. Coverage applies to the ATD certified handler/dog team functioning as a therapy dog team at a visit or event such as described below. Members are covered only when ATD is the primary insurance and there is no other insurance (whether from the facility or another organization) in effect while they are visiting.

If you do not renew by your renewal date on time, either January 1 or July 1, there is no insurance grace period. You will not be covered by insurance on visits until you receive your new membership card.

If a claim is filed on your behalf by ATD and it is determined that you were not following the ATD rules at the time of the incident, you may be required to reimburse ATD for any monies paid out on the claim.

A therapy dog function may include, but is not limited to, making visits at a facility such as a hospital, nursing home, library, school, detention center, hospice care center, etc. Therapy visits can also be for community events such as a parade, educational seminar, dog breed showcase, public educational event, or event promoting or describing ATD. At such an event, if the dog is displaying the red heart ATD tag, the team is representing ATD. Dogs may not wear ATD identification, including the red heart-shaped tag, at any other time. Identification from other independently insured pet therapy organizations is prohibited when representing ATD, including during the ATD testing and registration process.

- Members who take their dogs to work with them and/or use them in their jobs, including, but not limited to, teachers, therapists, doctors, or psychologists, are not covered by ATD insurance when functioning as employees. Members who use their dogs in their work can now apply to purchase separate insurance to cover them in their workplace. Go to the ATD website, therapydogs.com; click on the "Members" tab; scroll down to "Download Helpful Documents"; and click on "Insurance for Using Your Dog at Work." During such times, the dog must not display any official ATD identification.

8. Service dogs and two dogs on visits:

If a member has a therapy dog that is also the member's service dog, official ATD therapy dog identification should not be displayed while the service dog is assisting the member in restaurants, stores, flights etc., and is not acting as a therapy dog. ATD is not liable for damages caused by the handler's use of medical equipment during visits including, but not limited to, wheelchairs, electric chairs, scooters, walkers, canes or crutches.

Handlers who want to take their therapy dogs into places that normally allow only service dogs **MUST** explain that their dogs are therapy dogs, not service dogs, **AND** that they do not have legal access rights like service dogs.

ATD does not allow members to handle two dogs at the same time on any visit, including a service dog and a therapy dog. For safety and liability reasons, ATD will no longer grant exceptions for two dogs with one handler for any visits and/or events.

- 9. Junior handler requirements:** The minimum age requirement for regular ATD membership is 18. When permitted by the facility, a prospective junior member/handler, aged 12 through 17, may accompany a T/O on one visit before being tested. Prospective junior members are not required to do the background check.

The junior member/handler must be accompanied at all times by a registered ATD handler, with or without a dog, **and** a parent/guardian during testing and on all visits. If the

parent/guardian is also an ATD registered handler, s/he may not bring an additional dog but may handle the junior's dog if also certified with that dog. The parent/guardian and ATD member supervising a junior team may supervise only one team at a time. Upon reaching the age of 18, the handler is required to contact the office and sign a release of claims for the ATD member files.

III. Visits:

10. **Starting a visit:** The visit or event begins as soon as you reach the facility property, including the parking lot. The visit does not end until you leave the facility property.
11. **Items required on visits:** Handlers must carry a current membership card, and dogs must wear the official red heart-shaped ATD identification tag on the collar, harness, vest, or leash when representing ATD on visits or at events. Members must have written proof of their dog's vaccinations readily available at each visit, either carried with them, or in the car and available upon request.
12. **Behavior of dogs:** Dogs must remain under control at all times. Any inappropriate behaviors must be quickly and quietly corrected: barks should be quieted; and jumping/pawing dogs should be quickly moved away while apologizing and checking to see if the person is OK. If not quickly corrected, the team must leave the property.
13. **Ask before entering:** Always ask before bringing your dog up to a person for visiting. If you are entering a room, make sure everyone in the room wishes to have the dog visit. If one person does **not** want a visit, ask that person if it is OK to visit with others in the room. If not, do not enter the room.
14. **Frequency of visits:** ATD requires a minimum of one visit every three months per handler/dog team. If a team fails to make the required visits, refer to Member Guideline 19.
15. **Guests on visits:** Anyone accompanying an ATD-certified team on a visit (e.g., family member, spouse, friend) must not require assistance from the handler and must be at least 18 years old. Facilities must give permission for all visitors.
16. **Facility or sponsoring organization regulations:** Therapy dog teams must strictly adhere to all rules and regulations of each facility or sponsoring organization. If these rules are unclear, ask a staff member or activities director to explain them. ATD members will not provide chemical substances or apply them to their dog unless authorized or provided by the facility. Substances include, but are not limited to, hand sanitizers, hand wipes or lotions.

Do not give food, water, or assistance to a patient or resident, even if asked. Notify a staff member if help is needed.

Read and obey all warning signs on room doors, such as "ISOLATION" or "INFECTIOUS, DO NOT ENTER." Handlers must stay alert to their surroundings at all times. If any facility rules conflict directly with ATD, please contact the ATD office.
17. **Walking the dog in a facility:** Dogs may not precede handlers down halls, around corners,

at doorways, or at stairways. Stand back while waiting for an elevator door to open. When the door opens, wait to assure safe exit of passengers. If the elevator is occupied, the handler must ask permission to enter with the dog.

- 18. Cellphones:** Member/handlers must not make or receive calls or text messages using a cellphone inside a facility. Pagers and cellphones must be set on silent or vibrate while inside a facility. If the use of a phone becomes necessary, handlers must excuse themselves temporarily and complete the call outside the facility.

IV. Member Handler/Dog Team Re-Evaluation

- 19.** If ATD has been alerted to a possible high-risk or behavior issue with a member or a member's dog, ATD may request that the team be re-evaluated. When there is no T/O in the general area who can give an unbiased report or evaluate the handler/dog team fairly, ATD may choose to send one of the directors to the area to re-evaluate the handler/dog team at the expense of ATD.

If a team fails to make one visit every three months, they must be re-observed at least one time by an ATD T/O. If a team fails to make a visit within six months of a previous visit, a full retest is required to reinstate membership.

In the event a retest and/or re-observation is required or requested for any reason, the T/O shall:

- Use the current test/observation paperwork
- Follow the current guidelines for testing/observing

If the team passes, the handler shall submit the paperwork to the office within 7 days (standard mail, fax, or email).

If the team fails, the team shall refrain from visiting until they hear from the office. The T/O will send the paperwork to the office within 7 days

V. Health Requirements:

- 20. Dog health requirements:** Dogs must have an annual wellness examination, including a fecal check, by a veterinarian. They must be current on their rabies vaccination and any other vaccines as advised by their veterinarian. Veterinary reports of rabies titer levels of 0.5 IU or greater are acceptable and must be measured every two years to ensure levels are acceptable. Maternity leave is required for pregnant bitches from 30 days prior to whelping date to 60 days after whelping. Bitches in season will not participate in therapy visits. Dogs who have any fresh wounds, recent surgery, injuries, or infections may not do pet therapy visits until recovered and healed. Dogs must also be free of any drugs or substances that might affect performance.
- 21. Certified dog developing disabilities and/or stress:** The member/handler must notify the ATD office if the dog has developed any disability since the initial testing, or shows signs of physical and/or mental distress during visits. The handler/dog team will need to be retested with one observation before continuing any visits.

- 22. Handler health requirements and developing medical issues:** Handlers who have any fresh wounds, recent surgery, other injuries, infections, or any condition which may inhibit their ability to handle the dog safely may not do pet therapy visits until recovered and healed. Any member/handler who has had any change in medical condition since initial testing, even if temporary, that may impede his/her ability to safely handle his/her dog, including but not limited to: stroke, broken limb, weakened strength, change in disability, change in mental or emotional condition, etc., must notify the ATD office and may need to be retested and/or observed before continuing any visits.

VI. Grooming Requirements

- 23. Dog grooming requirements:** Participating dogs must be clean and well groomed, have trimmed/filed nails, clean teeth, be free of internal and external parasites, and in good general health. If used, topical flea and tick preventative must be applied a minimum of three days prior to any pet therapy visits. Flea and tick prevention collars shall not be worn during ATD visits.
- 24. Handler grooming requirements:** While participating in therapy visits, handlers must be clean, well groomed, and without influence of alcohol and/or drugs that would impair safety or judgment. Handlers must be able to act quickly enough to remove themselves and their dogs without assistance from a facility in the event of an emergency. All visited facilities must be informed of any medical conditions that would affect the team's ability to perform volunteer duties.

VII. Attire and Equipment

- 25. Handler attire:** Skimpy or tight-fitting attire including short shorts, tank tops, and bare midriffs are not allowed. Wear sensible, safe walking shoes with backs or at least a strap around the heel (no flip-flops, high heels, spike heels or shoes without backs).
- 26. Dog equipment:** Equipment that is not allowed includes clickers, retractable, elastic/bungee or chain leashes, pinch, prong, spiked or electronic collars. Collars, including slip, buckle, quick release, martingale, limited slip or any other smooth collars made of chain, nylon or leather, are acceptable. Leashes must be 4 feet in length or shorter and made of material strong enough for the size/strength of the dog. The use of a traffic leash is recommended for large dogs. Leashes may not be tied or folded to make them 4 feet in length or shorter after the handling test and first observation are completed. The collar should fit snugly enough so the dog cannot easily back out of the collar or slip it off of his/her head. A slip collar should be correctly worn so it releases properly as designed. Head halters and body halters/harnesses made of fabric webbing or leather with metal or plastic buckles are acceptable. Body halters/harnesses fastened with Velcro® or metal clothing snaps are not allowed. Dogs wearing a body halter/harness or a head halter must also wear an approved collar. The leash may be attached to the collar, halter, or harness.
- 27. Dog strollers:** All strollers must be made specifically for dogs. ATD members who wish to use a stroller for an already certified dog must have a T/O perform the handling portion of the test and observe them one time with their dog in the stroller. All handlers, including existing ATD members, must submit the test and observation forms to the office along with a

picture showing that the dog is wearing an approved collar and on a 4-foot or shorter leash held by the handler while secured in the stroller.

VIII. Safety precautions:

28. **Two-foot rule:** Two-foot rule: Dogs must be kept at least 2 feet from other dogs and animals at all times while representing ATD on a visit or event to discourage play, to ensure that dogs have enough personal space for focusing on the person being visited, and to prevent any interaction between dogs that could possibly lead to an injury to a third party, the handlers or their dogs. If a dog prefers more than 2 feet, the handler should be sure to provide for the dog's needs. If members choose to take group photos with dogs posed less than two feet apart, they will be done at the members' own risk, and the facility must be notified that ATD insurance is not in effect.
29. **Your dog is your first priority:** While participating on an official ATD visit, handlers must have their attention on their dogs for the safety and welfare of their therapy dogs as well as those whom they visit. Do not become so comfortable that you become careless. Excuse yourself and your dog from any situation you do not believe will be a positive experience for all involved. Never put yourself or your dog in a questionable or threatening situation.
30. **Stay alert:** ATD handlers must be alert to their surroundings at all times. Handlers may not participate in activities that take their attention from their dogs, including, but not limited to, reading to a group, directing bingo, or playing a piano.
31. **Face-to-face:** Do not allow your dog's face near a human's face. Facial kisses are not allowed.
32. **Only handlers may handle their dogs:** Handlers must never leave their dogs alone with staff, patients, or visitors. Dogs must be kept on a 4-foot or shorter leash held only by the member/handler. The leash must be held by the member's hand and may not be hooked or attached to the member's body, belt, any chair, wall, purse, or other person, etc.
33. **Dogs off leash/others leash walking handler's dog:** If safe conditions exist, a dog may be taken off leash when performing tricks, demonstrations, and when assisting with therapy such as retrieving. Only one dog at a time may be off leash. Dogs may no longer be off leash when posing for photos while on a visit. If one additional person wants to walk the dog, the handler may use two leashes or a two-loop leash with the handler always holding the shorter leash or loop so that the handler always maintains control of the dog.
34. **Dogs on laps/furniture:** The ATD member/handler must know and strictly adhere to the facility policy concerning dogs on any laps/furniture. This is for all furniture, including, but not limited to, chairs, couches, wheelchairs, beds, or physical therapy beds/pads. The handler must be in control of the dog's head at all times.
 - **Laps** - If the facility policy allows, and permission from the patient/guardian is given, ATD allows dogs weighing 15 pounds or less to be placed in laps. When placing a dog in someone's lap, be sure to face the dog away from the person's face, presenting the back and shoulders to be pet. Do not present the dog face-to-

face with the person.

- **Occupied Furniture** - Dogs weighing 50 pounds or less can be placed onto occupied beds. Dogs weighing more than 50 pounds may never be placed onto occupied beds.
- Therapy dogs are not allowed onto any occupied bed, chair, or wheelchair unless that practice is allowed by the facility and the resident/patient has given permission. Only with this permission may the handler lift the dog onto and remove it from the occupied bed, chair, or locked wheelchair without injury to the resident/patient.
- Regarding linens or coverings, refer to facility procedures about placing a dog on a bed, chair, or lap.
- For safety reasons, ATD will allow only one dog at a time on any occupied furniture as described above.
- Be cautious around patients who might have existing or recent injuries or surgery with regard to placement of the dog so as not to cause an injury with the dog's feet or body weight. Always ask if the person has a sore spot or if there is an area that you should avoid when placing the dog.
- Remember to watch for tubes, lines and other medical equipment.
- When space allows, dogs of any size may be lifted and safely placed by the handler onto unoccupied furniture such as a couch or love seat.

IX. Special permission:

35. Special permission: It is ATD's policy not to grant exceptions to the rules due to safety and insurance reasons. Please note, two dogs with one handler are never allowed on any visit while representing ATD.

ATD sometimes grants special permission for certain circumstances. Members may apply to the Alternative Review Committee by submitting a cover letter explaining the reason for their request. If the request involves special equipment, such as a dog carrier or cart, a picture of the dog with the equipment is required. Certain requests may also require letters of reference from someone directly involved or those who will need to be aware of these situations (e.g. a facility, hospital, school, etc.) Obtain the appropriate information from the ATD office.

Special permission might be granted for the following:

- Two or more dogs, each with their own handler, participating in a trick, demonstration or presentation
- Special equipment or devices, such as carts and dog carriers, etc.

If a handler chooses to engage in a behavior/activity that is outside of these guidelines

without permission, the handler must remove the dog's official ATD red-heart shaped tag and notify a facility supervisor that ATD insurance is not in effect for the duration of the behavior/activity.

X. Legal issues:

- 36. Privacy:** Observe all rules of privacy and confidentiality as required by HIPAA. Never discuss a patient's health or personal issues with the patient or anyone else.
- 37. Photos** may not be taken without prior written permission of the subject (or guardian). Members must use an ATD Photo Authorization form for any submission to ATD-owned publications or social media.
- 38. Expenses and taxes:** ATD members may not provide information regarding whether expenses resulting from volunteer activities are tax deductible. Anyone having questions about whether certain expenses are tax deductible should be told to seek the advice of their tax preparer or the Internal Revenue Service, not other ATD members, the board of directors, or the ATD office.
- 39. Incident or Injury:** If an incident or injury to an employee, resident, or visitor in the facility occurs while representing ATD:
- Immediately contact the facility's supervisor on duty.
 - If the incident is a suspected bite, end the visit immediately.
 - Document the incident on all required forms for the facility.
 - Immediately contact the ATD office and report the incident. If after hours or during a weekend please leave a voice message and make contact with the ATD office during the next business day.
- 40. Suspected dog bite:** Regardless of whether they are on an ATD visit or not, if a certified dog is suspected of a dog bite, whether to another dog or to a person, the incident must be reported to the ATD office. The dog shall not participate in any pet therapy work until the bite incident is investigated by ATD.
- 41. Felonies:** If a member has been convicted of a felony that has not been previously reported to the ATD office, s/he must do so.

XI. In Conclusion:

ATD reserves the right to deny, revoke or not renew membership. At the discretion of the ATD Board of Directors, a handler/dog team may be asked to temporarily or permanently refrain from further visits under the name of ATD if they fail to comply strictly with these Rules and Regulations (or) as provided by Article III Section 4 of the ATD By-Laws. Should this action be necessary, the handler will be requested to return the official red heart-shaped ATD identification tag and membership card to the ATD office.

ALLIANCE OF THERAPY DOGS RULES AND REGULATIONS
Part III
POLICIES

Failure to adhere to the ATD Governing Member Guidelines, Policies, or Code of Ethics will jeopardize your membership.

I. Use of ATD Materials

All materials representing ATD, which include the title, artwork, and logo, are registered and/or copyrighted and may not be recreated or printed in any fashion in newsletters, memos, or other communications, on websites, business cards, organizational brochures, official printed matter created by a local organization, clothing, or specialty items without written authorization from the president of ATD.

Any organization or individual member of ATD who wishes to distribute or duplicate copyrighted material belonging to ATD, or to use in any manner the ATD name, logo, or slogan must submit their request in writing to the president of ATD. The request will be evaluated and the requestor will be notified in writing whether permission is granted.

Links to www.therapydogs.com are allowed.

You may be denied permission or asked to remove the ATD name, logo, slogan, or link at ATD's discretion.

II. Use of ATD 501(c)(3) Tax Identification Number

Permission to use the ATD TIN will be given only for monetary donations being made to ATD, and requests will go through the ATD office.

ATD will place all donations received into the general fund unless otherwise specified by the donor.

Donations made in the name of a local group for services they have provided will be divided 50/50 between the group and ATD at the group's request. If no such request is made, ATD retains the entire amount of the donation and deposits it to the general fund with any other special instruction from the donor.

III. Website and Disclaimers

The information that is published on or collected through ATD's website is public information as described in the Freedom of Information Act. The following paragraphs disclose the information gathering and dissemination practices of the ATD website:

Alternative Formats and Accessibility

Copies of portions of the ATD website are available in alternative format upon request.

ATD is committed to making its presence on the Web as accessible as possible to all. A member of the board of directors or the corporate office may be contacted in case of difficulty with any portion of the ATD website.

Privacy Policy

ATD does not collect personal information on website users in the logs kept to compile statistics. The website statistics section of this policy offers further details about the information that is collected.

Linking to External Sites

The ATD website may contain links to other sites not owned by ATD. Even though efforts are made to ensure the integrity, accuracy, and usefulness of the website, no claims are made as to the accuracy or verification of the information found on external sites. External links to other sites do not have the endorsement of ATD, and therefore, ATD cannot be responsible for the privacy practices observed or for the content of other such sites.

Website Statistics

ATD uses server log analysis tools to create periodic summary statistics of its website's usage. These statistics serve to reflect usage summaries, such as general access (number of hits received), resources accessed (most and least popular pages), visitors and demographics (IP addresses and domains), diurnal activity statistics (most/least active days), technical statistics (client errors), referrals and keywords (search engines and sites pointing to the ATD), and browsers and platforms.

IV. Social Media

ATD does not intend to interfere with any member's private life, but publicly observable communications, actions or words are not private. Social media platforms are electronic public forums. Any posts depicting official ATD visits that are brought to ATD's attention which appear to show rules not being followed may be addressed publicly or privately by ATD.

V. Endorsements

ATD does not endorse businesses, products, or services. No unauthorized advertisements or solicitations will be allowed on the ATD website or social media platforms.

VI. Non Discrimination

It is the policy of ATD to provide registration to all qualified persons. No person shall be excluded from participation, denied the benefits of membership, or be subjected to discrimination because of race, religion, gender, sexual orientation, disability, or national origin. All applicants will be tested and observed under this policy.

Furthermore, ATD Tester/Observers (T/Os) shall not discriminate against said persons when asked to test and observe teams. Handlers will be tested and observed in a timely

fashion (a test date must be offered within three months) and treated in such a manner as set forth in the Rules and Regulations and in the Tester/Observer Guidelines.

ATD handlers may not discriminate in any way, shape or form against persons with regard to race, religion, gender, sexual orientation, disability or national origin. Any reported and verified discrimination shall result in termination of membership.

VII. Distribution of Materials/Information during Visits

There will be no verbal or written distribution of commercial, religious, or political materials and/or information during visits or events sponsored by ATD. Upon request, information may be provided about ATD, local therapy dog groups, and other dog-related topics.

VIII. Distinction of Therapy Dogs from Service Dogs

Dogs certified by ATD are named “therapy dogs” because they provide a therapeutic benefit to the general public. They are not eligible for public access rights.

Handlers shall not misrepresent ATD-certified dogs as service dogs unless the animal does assist the handler as defined in the Americans with Disabilities Act. If a member has a service dog, official ATD therapy dog identification should not be displayed while the service dog is not acting as a therapy dog but is working for the member in restaurants, stores, on flights, etc.

Handlers who want to take their therapy dogs into places that normally allow only service dogs MUST explain that their dogs are therapy dogs, not service dogs, AND that they do not have legal access rights like service dogs.

IX. Volunteer Handler/Dog Teams

The purpose of ATD visits is to provide service in a volunteer capacity. Liability insurance coverage is provided to handler/dog teams serving in a volunteer capacity only. Teams are not covered by ATD’s general liability policy if the member receives pay, wages, or other financial compensation during a visit. If a member chooses to visit where s/he is working, s/he must do so as an unpaid volunteer.

X. Aggression/Abusive Behavior

ATD has a zero-tolerance policy for any dog displaying aggression toward humans or unprovoked aggression toward other dogs and for any handler displaying menacing or abusive behavior while on a visit. When the ATD office is notified of a bite or suspected bite incident by a dog or a crime committed by a member, the office will contact the handler, and the handler, dog and/or team will immediately be placed on suspension to allow time for the Grievance/Ethics Committee to investigate the incident.

If a dog has been deemed dangerous, aggressive, or similar designation as defined by local laws as a result of an incident and documentation verifies it, the certified dog's membership will be terminated.

XI. Breeds and Breed Specific Legislation

ATD does not support any breed specific legislation. ATD membership is open to handlers with all breeds of dogs except wolf and wolf-hybrids and coyote and coyote-hybrids. T/Os are expected to test all breeds and mixed breeds without prejudice.

XII. Non-ATD Therapy Dogs/Animals

ATD handlers may not bring any animals other than their certified therapy dogs on ATD visits. Teams must remain at least 2 feet from other visiting teams and from any therapy animals registered through other organizations. Handlers should stay as far away as possible from other animals present during an ATD visit. If a facility has free-roaming animals or family pets that might be present during a visit, ATD handlers should request that they be allowed to visit in an area away from the other animals.

XIII. Local Groups

ATD only recognizes individual members and T/Os. There are no ATD-sanctioned local groups or chapters. The ATD Board of Directors does not involve itself with any locally formed group issues, costs, or rules unless the local rules conflict with the ATD Governing Member Guidelines, Policies, or Code of Ethics. Individual members may choose to join any local group as they see fit.

The board expects T/Os to test and observe ALL individual teams who request to be and are eligible for ATD membership. T/Os are not allowed to give priority to individuals who are only interested in joining a particular local group.

XIV. Disaster Relief

Any ATD handler/dog team that provides visits as a result of an emergency or disaster while representing ATD is covered by ATD insurance. An agency which contacts a handler/dog team requesting their services is acting merely as a liaison and is not financially liable.

**ALLIANCE OF THERAPY DOGS
2019 MEMBERSHIP APPLICATION**

THIS APPLICATION MUST BE RECEIVED WITHIN SIX MONTHS FROM THE DATE OF THE TEST

**TYPE OR PRINT LEGIBLY IN INK
*INDICATES REQUIRED INFORMATION FOR MEMBERSHIP**

Existing member ID# _____
 New member one handler/one dog team..... \$40
 Additional evaluated handlers or dogs in the same household (see other side for fees)

Minimum age for regular membership is 18 years. Ages 12 through 17 may be tested for junior membership.

*Full Legal Name ERIK NELSON		
*Mailing address 2743 SW UMATILLA CT		
*City REGMOND	*State OR	*Zip Code 97756
*Day Telephone (630) 945-7346		Evening Telephone ()
*Email ERIK.NELSON325@Gmail.com		
*Dog's Call Name LILY	*Breed or Mix type BLACK LABRADOR	
*Dog's date of birth if known, or approximate age (minimum 1 year): Circle: Male <input type="radio"/> Female <input checked="" type="radio"/> 9-5-2014		

***** THE FOLLOWING ITEMS ARE REQUIRED AND MUST BE INCLUDED FOR MEMBERSHIP*****

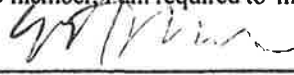
ATD DOCUMENTS:

- Verified Volunteers Background Check Proof of Eligibility AND
- Completed ATD Test AND
- This completed application AND
- Signed Release of Claims Form AND
- Fees AND
- Signed Rules Review Form

PROOF OF DOG'S HEALTH:

- Completed Health Verification Form OR
- Proof of current rabies vaccination or proof of rabies titer level greater than or equal to 0.5IU within 2 years AND
- Proof of annual veterinary wellness exam within 12 months AND
- Proof of negative fecal within 12 months

I certify that I have read and I understand the ATD Rules and Regulations and insurance coverage as set forth by ATD. I agree to abide by these regulations when working with my dog under ATD's name. My dog will wear the official red heart-shaped ATD identification tag, and I understand that I will be covered for liability under ATD's insurance while participating in visits under ATD's name. I shall not misrepresent my therapy dog as a service dog for the purpose of gaining public access to planes, restaurants, public building, stores, etc., or for any other reason. I agree to provide the required annual veterinary care as set forth by ATD. I understand that as an ATD member, I am required to make a minimum of one visit every three months with my dog.

APPLICANT SIGNATURE 
 *Date **12-30-19**

*Age of Applicant (if minor) _____

*Signature of Parent/Guardian if app _____ *Date _____

Send to: Alliance of Therapy Dogs, P.O. Box 20227, Cheyenne, WY 82003
 Overnight/Express: 1919 Morrie Ave., Cheyenne, WY 82001
 Phone: 307-432-0272 or 877-843-7364
 Email: office@therapydogs.com
 Website: www.therapydogs.com

Explanation of Membership Fees

- Single membership fee (1 person/1 dog)
One person/dog team is \$30
New member processing fee is \$10 per household
Total due for this new team is **\$40.00**

- Single membership fee (1 person/2 dogs)
First person/dog team is \$30
Additional dog(s) is \$10 each
New member processing fee is \$10 per household
Total due for this person with 2 dogs is **\$50.00**

- Two people in one household with one dog (2 people/1 dog)
First person/dog team is \$30
Second person in the same household is \$10
New member processing fee is \$10 per household
Total due for this household is **\$50**

- Two people in one household with two dogs (2 people/2 dogs)
First person/dog team is \$30
Second person in the same household is \$10
Second dog in the same household is \$10
New member processing fee is \$10 per household
Total due for this household is **\$60**

- Existing members
Each additional dog or handler in the same household is \$10.
You do not pay the membership fee or the processing fee again.

- Two members handling the same dog who do NOT live in the same household
Each will pay the full membership fee of \$30 and \$10 for processing. Each person has their own account and will receive their own member packet and renewal.

- Supporting membership (Membership without registered dog)
Total due for this person is \$20

RELEASE OF CLAIMS FOR ACCIDENTAL INJURY

I hereby certify that I am aware of the inherent dangers of handling dogs in settings with people and with other dogs, and that I recognize the importance of following safety rules in all situations.

I understand that it is not the purpose of Alliance of Therapy Dogs to teach me safety rules, and it is not the function of the organization or its agents to serve as guardians of my safety or as guarantors of my responsibilities or liabilities. In that regard, I understand and guarantee that while I am participating in the Alliance of Therapy Dogs Test and any subsequent visits that are required prior to being granted membership, I am solely responsible for any incident that might occur and therefore absolve Alliance of Therapy Dogs from any liability.

In consideration of being given the opportunity to apply for membership in Alliance of Therapy Dogs, I am willing to assume all risks in the activities described above and release the persons and entities cited above, if an injury or damage befalls me or the dog I am handling, whether foreseen or unforeseen, during the performance of these activities, and furthermore save and hold harmless Alliance of Therapy Dogs and persons from any claim by me or my family or any other party arising out of my participation in this activity.

Further, I understand and guarantee that while I am participating as an Alliance of Therapy Dogs member, I am solely responsible for any incident that might occur and therefore absolve Alliance of Therapy Dogs officers, directors, members, agents, or employees from any liability. I also understand and agree that Alliance of Therapy Dogs may not be held liable in any way for any occurrence in connection with said activities that may result in injury, death, or damages to me, my dog, or my family. I shall indemnify Alliance of Therapy Dogs for any damages incurred by Alliance of Therapy Dogs resulting from any harm, injury, illness, death, or other damage to the dog I am handling while on Alliance of Therapy Dogs visits. Furthermore, I certify that I am solely responsible for any harm, injury, illness, death, or other damage that may occur to the dog I am handling while on Alliance of Therapy Dogs visits.

I further state that I am of lawful age and legally competent to sign this affirmation and release, or that my guardian has executed this release along with me. I understand these terms are contractual and I have signed this document as my own free act and deed and without fraud, force, or undue influence.

I have read the contents of this document, am fully informed of its contents and affirm that I understand its contents. In addition, I assume my own responsibility for my physical fitness in regard to my ability to perform the functions required for this activity. I have executed this affirmation and release on:

Date: 12-30-19

To your knowledge, has this dog ever bitten a person? Yes ___ (Date of bite _____) No

If yes to this question, the membership process must cease pending an investigation.

Are you the owner of this dog? Yes No ___

Prospective Member

[Signature]
Applicant Signature

ERIK NELSON
Print Full Legal Name

3-25-1986
Date of Birth

2743 SW UMATILLA CT
Address

REGINA OR 97156
City State Zip Code

Signature of Parent or Legal Guardian (If applicable)

Prospective member must sign this document before testing.

A release for each handler/dog team must be returned with ATD Test and Member Application to the ATD office.

ATD Rules Review
(Items to be discussed with the T/O)

- ~~1.~~ What is the "2-foot" rule and why is it important?
- ~~2.~~ May you allow your dog to kiss someone's face?
- ~~3.~~ What do you do if your dog accidentally paws and scratches a patient? Whom do you notify?
- ~~4.~~ In addition to an approved 4' or shorter leash, what must members have with them on a visit?
- ~~5.~~ When does a visit begin and end?
- ~~6.~~ If you place your dog on a patient's bed for petting, what should you do? What part of the dog must you be sure to control at all times, especially if the dog is on occupied furniture?

I have discussed the above questions and other guidelines with the applicant.

T/O Signature Monica Rendon

Date 12-30-19

Print Name Monica Rendon

I have discussed the above questions and other guidelines with the T/O.

Applicant Signature Erik Nelson

Date 12-30-19

Print Name ERIK NELSON



New Member Health Verification Form

Questions: (307) 432-0272, -877-843-7364 or
office@therapydogs.com

Please complete this form prior to arriving at the handling portion of the test. Alternatively, you may provide veterinarian proof of all required records. This form OR veterinarian proof of all required records must be submitted with your complete application packet for membership.

Handler/Prospective Member Name _____

Ph# _____ Email _____

Dog's Name _____

Date of annual physical exam _____

Date of current negative fecal exam _____

Date of current rabies vaccination _____ 1 year 3 year

OR Rabies titer _____ titer level _____ (within the last 2 years and greater than or equal to 0.5 IU)

Veterinarian Name _____

Veterinarian Address _____

Veterinarian City, State, Zip _____

Veterinarian Phone _____

The dog listed on this form has been examined in this clinic and it is believed that this dog is healthy and free of internal and external parasites on the date of the annual physical exam listed above.

Required Veterinarian Signature/Clinic Stamp

Date

2019 ALLIANCE OF THERAPY DOGS TEST

*** MUST BE RECEIVED BY THE OFFICE WITHIN SIX MONTHS FROM THE DATE OF THE HANDLING TEST ***

Applicant Full Legal Name:	Dog's Call Name: <i>Lily</i>
----------------------------	---------------------------------

Is this the first time being tested with this dog for ATD? Yes No

If tested before, please indicate the approximate previous testing date(s):

**The ATD test may be taken no more than three times with the same dog, with at least 30 days in between tests.
Falsification of any information will result in membership denial.**

BRING TO THE TEST:

Proof that you have successfully completed the Verified Volunteers background check

Proof of current rabies vaccination **OR** a current titer level of greater than or equal to 0.5 IU within the past 2 years **AND**

Proof of negative fecal within 12 months **AND** proof of vet exam within 12 months **OR**

A completed Health Verification Form

EACH HANDLER/DOG TEAM MUST PASS ALL SECTIONS OF THIS TEST

Handling Test Sections 1 - 9

1.	Handler's attention to instructions: Handler arrived at testing appointment with the following required items:		
	Did the handler bring an approved collar for the dog?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Did the handler bring an approved 4 foot or shorter leash for the dog?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Was the handler clean and dressed appropriately, including correct footwear?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Comments:		
2.	Initial meeting:		
	Was the handler in control?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Were the handler and dog polite?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Was the dog corrected/redirected for inappropriate behavior?	<input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Was the dog praised for good behavior?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Was the dog clean and well groomed?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Comments: <i>Excellent, shiny coat!</i>	<input checked="" type="checkbox"/> PASS	<input type="checkbox"/> FAIL
3.	Canine-human behavior: friendly stranger		
	Small dog held for testing*	<input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Was the handler in control?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Did the dog bark at person(s)?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Was the dog interested in the person(s)?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Was any sign of aggression demonstrated?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Was the dog corrected/redirected for inappropriate behavior?	<input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Did the handler praise the dog?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Comments: <i>Excellent</i>	<input checked="" type="checkbox"/> PASS	<input type="checkbox"/> FAIL
4.	Physical handling of the dog and dog's response:		
	Small dog held, lifted or carried for testing*	<input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Stroking the head, body and tail with both hands	<input checked="" type="checkbox"/> Acceptable	<input type="checkbox"/> Unacceptable
	Touching the paws	<input checked="" type="checkbox"/> Acceptable	<input type="checkbox"/> Unacceptable
	Scratching/petting the throat	<input checked="" type="checkbox"/> Acceptable	<input type="checkbox"/> Unacceptable
	Holding the ears	<input checked="" type="checkbox"/> Acceptable	<input type="checkbox"/> Unacceptable
	Comments:	<input checked="" type="checkbox"/> PASS	<input type="checkbox"/> FAIL

*Any dog that might be held, lifted or carried during visits must also perform this exercise held by the handler.

**A dog too short to be reached for petting must have its front legs lifted or propped up for this exercise.

5. Handler control of dog with a loose leash:			
Team moving forward, changing pace between normal, slow and quick	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Team making left and right turns and turning around	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Stopping with dog staying calmly by the handler's side for 5 seconds	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
A person rushing past the team while in motion (from front/back/sides)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Near a person walking unsteadily*	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Team going up to a seated person for petting* **	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Small dog held, lifted or carried for testing*	<input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Comments: <i>lots of wheel chair bound patients</i>	<input checked="" type="checkbox"/> PASS	<input type="checkbox"/> FAIL	
6. Canine-canine behavior: NEVER allow the dogs to be closer than 2 feet or to stare at another dog.			
Small dog held, lifted or carried for testing*	<input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Was the handler in control?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Did the dog bark at other dog(s)?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Was the dog interested in other dog(s)? <i>appropriate</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Was any sign of unprovoked aggression demonstrated?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Was the dog corrected/redirected for inappropriate behavior?	<input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Did the handler praise the dog?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Comments:	<input checked="" type="checkbox"/> PASS	<input type="checkbox"/> FAIL	
7. Dog's apparent responsiveness:			
Did the dog demonstrate a willingness to participate in the exercises?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
If initially excited, did the dog calm down and begin to respond?	<input type="checkbox"/> NA	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Did the dog exhibit signs of avoidance or stress during the test?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Comments:	<input checked="" type="checkbox"/> PASS	<input type="checkbox"/> FAIL	
8. Does the handler have the ability to safely handle this dog?			
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Comments:	<input checked="" type="checkbox"/> PASS	<input type="checkbox"/> FAIL	
9. Did the handler follow your instructions during the handling portion of the test?			
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Comments:	<input checked="" type="checkbox"/> PASS	<input type="checkbox"/> FAIL	

Date of Handling Test:	<input checked="" type="checkbox"/> PASS	<input type="checkbox"/> FAIL
TESTER SIGNATURE <i>Monica Rendon</i>		
TESTER NAME (print) <i>Monica Rendon</i>		
Comments: <i>Lily & Erik have a wonderful bond, she is Obedient, friendly, everything a good team member should be!</i>		
Testing for an Exception?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
REQUIRED Specify the exception:		
If testing for an exception application goes through Alternative Review Committee		

Observations 1 - 4

Applicant Full Legal Name

Dog's Name Lily

- **MINIMUM OF THREE OBSERVATIONS REQUIRED**
- **MAXIMUM OF FOUR ALLOWED**
- **Two observations must be done at a medical care facility**
- **All observations must be conducted on 3 (or 4) different days**
- **Please use the comment section for all exceptions**

Observation #1 – Type of facility used for observation Medical Other

Was the small dog's behavior acceptable when held by handler?	<input checked="" type="checkbox"/> NA	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The handler has the ability to safely handle this dog.		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Did the handler follow your instructions?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Did the handler follow the ATD Rules and Regulations during this observation?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Did the prospective handler arrive with the proper approved equipment for the test?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
The team demonstrated the appropriate skills to safely interact with people in animal assisted functions.		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Needs Improvement (If yes, list improvement needed in comments below).		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Observation: PASS FAIL
OBSERVER SIGNATURE Monica Rendon
OBSERVER NAME (print) Monica Rendon
Date 12-30-19

Comments:
Excellent first visit. Erik has tremendous people skills.

Observation #2 – Type of facility used for observation Medical Other

Was the small dog's behavior acceptable when held by handler?	<input type="checkbox"/> NA	<input type="checkbox"/> Yes	<input type="checkbox"/> No
The handler has the ability to safely handle this dog.		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Did the handler follow your instructions?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Did the handler follow the ATD Rules and Regulations during this observation?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Did the prospective handler arrive with the proper approved equipment for the test?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
The team demonstrated the appropriate skills to safely interact with people in animal assisted functions.		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Needs Improvement (If yes, list improvement needed in comments below).		<input type="checkbox"/> Yes	<input type="checkbox"/> No

Observation: PASS FAIL
OBSERVER SIGNATURE _____
OBSERVER NAME (print) _____
Date _____

Comments:

Observation #3 – Type of facility used for observation		<input type="checkbox"/> Medical	<input type="checkbox"/> Other
Was the small dog's behavior acceptable when held by handler?		<input type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No
The handler has the ability to safely handle this dog.			<input type="checkbox"/> Yes <input type="checkbox"/> No
Did the handler follow your instructions?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Did the handler follow the ATD Rules and Regulations during this observation?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Did the prospective handler arrive with the proper approved equipment for the test?			<input type="checkbox"/> Yes <input type="checkbox"/> No
The team demonstrated the appropriate skills to safely interact with people in animal assisted functions.			<input type="checkbox"/> Yes <input type="checkbox"/> No
Needs Improvement and a fourth observation (list improvements needed in comments)			<input type="checkbox"/> Yes <input type="checkbox"/> No
Observation:		<input type="checkbox"/> PASS	<input type="checkbox"/> FAIL
OBSERVER SIGNATURE _____		Date	
OBSERVER NAME (print) _____			
Comments:			
Observation #4 – (if needed)		<input type="checkbox"/> Medical	<input type="checkbox"/> Other
Type of facility used for observation			
Was the small dog's behavior acceptable when held by handler?		<input type="checkbox"/> NA	<input type="checkbox"/> Yes <input type="checkbox"/> No
The handler has the ability to safely handle this dog.			<input type="checkbox"/> Yes <input type="checkbox"/> No
Did the handler follow your instructions?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Did the handler follow the ATD Rules and Regulations during this observation?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Did the prospective handler arrive with the proper approved equipment for the test?			<input type="checkbox"/> Yes <input type="checkbox"/> No
The team demonstrated the appropriate skills to safely interact with people in animal assisted functions.			<input type="checkbox"/> Yes <input type="checkbox"/> No
Observation:		<input type="checkbox"/> PASS	<input type="checkbox"/> FAIL
OBSERVER SIGNATURE _____		Date	
OBSERVER NAME (print) _____			
Comments:			

Crook County Legal Department

Mailing: 300 NE Third St., Rm 10, Prineville, OR 97754 • Phone: 541-416-3919
Physical: 267 NE 2nd St., Ste 200, Prineville, OR 97754 • Fax: 541-447-6705



MEMO

TO: Crook County Court

FROM: John Eisler, Assistant County Counsel

DATE: January 10, 2020

RE: *GEC Letter of Education – Grant County Surveyor
19-051ESM Springer Investigation*

The Oregon Government Ethics Commission recently reprimanded the Grant County Surveyor for violations of conflict of interest rules via a Letter of Education. The Letter spread quickly among county surveyors of smaller counties and should be brought to your attention, as much of what the surveyor did was in reliance on historic county practices. With an understanding of the implications in the letter, the County should review its current practices to ensure compliance. The Letter is attached and a breakdown is below.

I. Summary

- (1) As public officials, any payments made to county surveyors must be made to the official in their individual capacity; not to any separate legal entity.
- (2) County surveyors must properly disclose any conflicts of interest; if the conflict is “actual,” they must abstain from the conflict.

II. Background

Michael Springer is the Grant County (County) surveyor. Springer is also an owner/officer of Benchmark Land Surveying, Inc. (Benchmark). A private citizen initiated a complaint against Springer with the Government Ethics Commission (GEC) that (1) Springer was using County funds to remonument corners needed for private surveys and (2) invoicing the County for the review of surveys actually reviewed by the Union County surveyor.

III. GEC Findings

The GEC’s investigation found Springer had committed two separate conflict of interest offenses (both outside the original complaint) but chose a Letter of Education as the form of sanction because Springer’s actions were in reliance on *historic County practices*, while noting that future violations may carry increased penalties.

A. Payments from the County

The first violation stemmed from the manner of compensation paid by the County to Springer. As had been the County’s long-standing practice, Springer would send quarterly invoices to the County and receive reimbursement for expenses for equipment and services performed in Springer’s official County duties. There is a violation here because the payments from the County were made to Benchmark, instead of Springer.

4

Payments by a County, as determined by a County Court or Board of County Commissioners can only be made to a *public official*. OAR 199-005-0035(3). Such payments by the County can be made via a formally adopted compensation package that may include a salary, hourly wage and benefits, or particular compensation for specific tasks—what matters is that the payments are made to the individually elected public official and not to a separate business entity.

B. Improper Recoupment of Filing Fees

The second violation stemmed from system of billing Springer employed by which the County was invoiced for the filing fees for surveys performed by Benchmark. The GEC also investigated allegations of impropriety regarding the remonumenting of corners and review of plats, but either found no evidence of impropriety or did not have sufficient evidence to make a determination.

As it pertains to the filing fees, the GEC found that Springer/Benchmark invoiced the County for filing/indexing fees on surveys by Benchmark. Counties may establish a fee to be collected by the county surveyor to file and index a map or report of a survey. ORS 209.620. During the period of review, Springer/Benchmark invoiced the County for 90 survey map reviews. The investigation uncovered that 52 of those 90 reviews were Benchmark surveys:

The effect of Benchmark's process makes it seem as if Benchmark never really pays to file and index its survey maps. This recoupment of survey map fees violates ORS 244.040(1). But for Michael Springer's official position, Benchmark would not be able to recoup its survey map fees.

19-051ESM Springer Investigation at 17. ORS 244.120(2) mandates public disclosure of any conflicts of interest. ORS 244.020(1) and (13) define actual and potential conflicts. In either case, the official must make a public disclosure. In the case of an actual conflict, after disclosure the official must refrain from participation in the matter. ORS 244.120(2)(b). The GEC's recommended methods of disclosure for public officials that would not otherwise attend public meetings, such as county surveyors, are posting the disclosure on the surveyor's website, issuing a press release, or making the disclosure at a County Court meeting.

IV. Application

I think there are three main take-aways from this, and I spoke with our County Surveyor, Greg Kelso, to get a better understanding of our County's practices.

First, the County needs to ensure that all payments to public officials are made to the official in their private capacity and not to any separate business entities. The County compensates Kelso for reviewing surveys, recording fees for plats, indexing/filing fees, and for his work remonumenting corners (the money for this originally comes from the Public Land Corner Preservation Fund). All of these payments properly go to Greg Kelso, personally.

One concern is the fee for storage of such files. Those payments (around \$250/month) are made out to Kelso Land Surveying, LLC, an entity in which he is a member. ORS 244.040(1)

prohibits the use of an official position to obtain financial gain or avoid a financial detriment of the opportunity would not otherwise be available *but for* the public official's position. If Kelso was not the County Surveyor, Kelso Land Surveying, LLC would likely not have the opportunity to store the County's surveys and maps. The County should revise its procedure here and pay the Surveyor in his individual capacity.

Second, Springer's method to recoup those filing fees from the County seems like just one example of a means for such a public official with major private interest ties to "game the system." The County should have systems in place to oversee the charges from such public officials to monitor suspicious billings. And third, the County should have an easy-to-follow protocol for such public officials to make the required public disclosures—doing so at County Court meetings seems like a simple solution.



Oregon

Kate Brown, Governor

Government Ethics Commission

3218 Pringle Rd SE, Ste 220

Salem, OR 97302-1680

Telephone: 503-378-5105

Fax: 503-373-1456

Email: ogec.mail@oregon.gov

Website: www.oregon.gov/ogec

December 11, 2019

Rob Bovett
Association of Oregon Counties
1201 Court St. NE #300
Salem, Oregon 97301

Dear Mr. Bovett:

At its meeting on November 22, 2019, the Oregon Government Ethics Commission (Commission) considered an investigative report concerning possible ethics violations by Michael Springer, the elected Grant County Surveyor. The Commission voted to issue a Letter of Education to Michael Springer in lieu of finding violations.

At the Commission meeting, Commissioners expressed that the investigative report and letter of education could be of interest to the Association of Oregon Counties and asked that we send the enclosed documents to you.

Please feel free to contact the staff at the Oregon Government Ethics Commission if you have any questions regarding this matter.

Sincerely,

Ronald A. Bersin
Executive Director

Enclosures

/SM



Oregon

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December 11, 2019

LETTER OF EDUCATION

Michael Springer
P.O. Box 476
John Day, Oregon 97845

Re: Michael Springer
Case No. 19-051ESM

Dear Mr. Springer:

This letter is to educate you for actions taken as the elected Grant County Surveyor that resulted in an investigation of potential violations by you of Oregon Government Ethics laws. This letter is issued in lieu of a finding of violation, as authorized in ORS 244.350(5), and is intended to educate you on the requirements that ORS 244.040(1) and ORS 244.120(2) place on you as a public official.

As a public official, you are individually responsible for ensuring that you do not engage in a prohibited use of office or use your position for the financial benefit of a business with which you are associated. In pertinent part, ORS 244.040(1) prohibits you, as an elected public official, from using or attempting to use your official position to obtain a personal financial gain or avoid a personal financial detriment for yourself or a business with which you are associated if the opportunity for such financial benefit would not have been available but for holding your official position. A business with which you are associated includes any private business or closely held corporation of which you are a director, officer, owner, employee or agent, or in which you own stock or another form of equity interest. [ORS 244.020(3)(a)]. A business with which you are associated also includes any business listed as a source of income on your statement of economic interest. [ORS 244.020(3)(d)].

In this case, you are an owner and officer of Benchmark Land Surveying, Inc. (Benchmark), a closely held corporation. Benchmark is also listed as a source of income on your statement of economic interest. Thus, Benchmark is a business with which you are associated. Accordingly, ORS 244.040(1) prohibits you from using or attempting to use your official position for the financial benefit of Benchmark. This prohibition includes using your position to create the opportunity for Benchmark to obtain additional work or directing payments to Benchmark.

Michael Springer
Letter of Education
pg. 2

The prohibition in ORS 244.040(1) does not apply to an official compensation package or reimbursement of expenses, as these terms are defined in the Oregon Administrative Rules. An official compensation package consists of the wages and other benefits, formally approved by the public body, provided to the public official. [OAR 199-005-0035(3) (emphasis added)]. Reimbursement of expenses means the payment to the public official of expenses incurred in the conduct of official duties. [OAR 199-005-0035(4) (emphasis added)].

ORS 209.080 provides that the County Court or Board of County Commissioners shall determine and pay the compensation for the county surveyor. In this case, Grant County has not established an official compensation package for the position of county surveyor; instead, the County has paid Benchmark over \$127,000 over the past four years for reimbursement of expenses for equipment and services that you incurred in the performance of your official duties. Because these payments were made to Benchmark, rather than to you as the public official, they do not qualify as reimbursement of expenses nor are they an element of an official compensation package.

A statutorily compliant compensation system would be one in which the County Court formally adopts an official compensation package for the position of county surveyor. Such an official compensation package could set forth a salary or hourly wages and benefits, or particular compensation rates for specified tasks. However the compensation package is structured, the compensation should be paid to you, rather than to Benchmark.

Additionally, you have a duty under ORS 244.120(2) to publicly disclose any conflicts of interest that arise. In relevant part, a conflict of interest arises whenever you, as a public official, take any action or make any decision or recommendation the effect of which would or could be to your private financial benefit or detriment or that of a business with which you are associated. A conflict of interest is actual if the effect of the official action, decision or recommendation would have a certain financial impact; a conflict of interest is potential if the effect of the official action, decision, or recommendation could have a financial impact. [ORS 244.020(1) and (13)].

Thus, if you, in your role as the county surveyor, take any official action or make any decision or recommendation that would or could financially impact you or Benchmark, then you must publicly disclose a conflict of interest prior to taking the official action or making the decision or recommendation. If the conflict of interest is potential, then after making a public disclosure of the conflict of interest, you may proceed with taking action on the matter. [ORS 244.120(2)(a)]. If the conflict of interest is actual – meaning that the effect of your official action on the matter would have a certain financial impact on you or a business with which you are associated – then after making your public disclosure, you must refrain from any participation in the matter. [ORS 244.120(2)(b)].

Michael Springer
Letter of Education
pg. 3

Elected public officials generally make their public disclosures of conflicts of interest at public meetings. For elected public officials who, because of the nature of their positions, do not hold regular public meetings, there are other methods for making a public disclosure of a conflict of interest. In your case, you could post the conflict of interest disclosure on the county surveyor's website, you could issue a press release, or you could ask for time at the beginning of a County Court meeting to make the public disclosure. What is important is that you make the public disclosure before taking any action on the matter from which the conflict of interest arises, and that you refrain from taking action when you have an actual conflict.

The staff at OGEC are available by phone (503-378-5105) or e-mail (ogec.mail@oregon.gov) to answer questions or to assess specific circumstances to help you remain in compliance with the ethics laws.

This letter of education was chosen as a sanction because you cooperated with the Commission during the course of this matter and because your actions were due, in substantial part, to reliance on historic Grant County practices. Future violations may carry increased penalties.

Sincerely,

A handwritten signature in black ink, appearing to be "Richard P. Burke", written over a horizontal line.

Richard P. Burke, Chairperson
Oregon Government Ethics Commission

sm

OREGON GOVERNMENT ETHICS COMMISSION

INVESTIGATION

CASE NO: 19-051ESM
DATE: November 14, 2019
RESPONDENT: Michael Springer, Grant County Surveyor
COMPLAINANT: Carl Stout
RECOMMENDED ACTION: Make a Preliminary Finding of Violations of ORS 244.040(1) and ORS 244.120(2)

1 **SYNOPSIS:** Michael Springer is the elected Grant County Surveyor. Mr. Springer is also
2 an owner and president of Benchmark Land Surveying, Inc. The complaint in this matter
3 alleged that Michael Springer may have used his official position to financially benefit
4 himself and his business, Benchmark Land Surveying (Benchmark), by invoicing Grant
5 County for corner remonumentations needed for private Benchmark surveys and by
6 seeking reimbursement for reviewing surveys and partitions that were actually reviewed
7 by the Union County Surveyor.

8
9 Information available during the investigation appears insufficient to support a finding that
10 Michael Springer invoiced Grant County for corner remonumentations needed by
11 Benchmark. Information does indicate, however, that Benchmark received payments
12 from Grant County, including payment for work performed by Mr. Springer in his position
13 as County Surveyor and improper reimbursement for survey map reviews. There is a
14 preponderance of evidence in this case that Michael Springer engaged in a prohibited
15 use of office in violation of ORS 244.040(1) and was met with actual conflicts of interest
16 and failed to comply with the disclosure and disposition requirements of ORS 244.120(2).

17 ///

18 ///

1 **RELEVANT STATUTES:** The following Oregon Revised Statutes and Administrative
2 Rules are applicable to the issues addressed herein:

3
4 **92.100 Approval of plat by city or county surveyor; procedures; approval by**
5 **county assessor and county governing body; fees.** (1)(a) Except as provided
6 in subsection (4) of this section, before a subdivision or partition plat that covers
7 land within the corporate limits of a city may be recorded, the county surveyor must
8 approve the plat.

9 * * * * *

10
11 (4) Before a subdivision or partition plat prepared by the county surveyor in a
12 private capacity may be recorded, the plat must be approved * * * by the surveyor
13 of a county other than the county in which the land is located and who has been
14 designated by the county surveyor.

15
16 (5) For performing the service described:

17 * * * * *

18 (c) In subsection (4) of this section, the designated county surveyor shall
19 collect the applicable subdivision or partition plat check fee, and any travel
20 expenses incurred, as established by the designated county surveyor's
21 board of commissioners. * * *

22 * * * * *

23
24 **203.148 Public Land Corner Preservation Fund; fees for recording.** (1) The
25 County governing body may establish by ordinance a fund to be known as the
26 Public Land Corner Preservation Fund. Moneys in the Public Land Corner
27 Preservation Fund shall be used only to pay expenses incurred and authorized by
28 the county surveyor in the establishment, reestablishment and maintenance of
29 corners of government surveys under ORS 209.070 (5) and (6).

30 ///

31 ///

1 **209.070 Duties.** The county surveyor of each county shall:

2 (1) Keep a fair and correct record of all surveys made by the county surveyor and
3 deputies thereof and by the county road official, all surveys received pursuant to
4 ORS 209.250 and all surveys under ORS 368.106 or 368.206.

5
6 (2) Number progressively all surveys received and state by whom and, if provided,
7 for whom made.

8 * * * * *

9
10 (5) Establish or reestablish and maintain all public land survey corners, where
11 evidence of the corners can be found and the corners can be positively located,
12 and keep a separate record of the corners, giving the dates and names of persons
13 present. When so established or reestablished such corner monuments shall be
14 recognized as the legal and permanent corners.

15
16 (6) Establish or reestablish, upon order of the county court or board of county
17 commissioners, all public land survey corners where all physical evidence is
18 destroyed or cannot be found but where the official government notes are
19 available, the corners to be reestablished in the manner provided in ORS 209.130
20 for establishing corners, and keep a separate record of the same, giving the date
21 and names of persons present, and turn such record over to the surveyor's
22 successor. When so established or reestablished such corner monuments shall be
23 recognized as the legal and permanent corners.

24 * * * * *

25
26 **209.080 Compensation.** The compensation for the county surveyor shall be as
27 determined by the county court or board of county commissioners, and paid out of
28 the county treasury upon order of the county court.

29
30 **209.230 Materials for certain purposes.** The county surveyor shall procure at
31 the expense of the county the materials and requisites for carrying into effect ORS

1 209.100 to 209.230. The county court shall pay for the same and all expenses
2 incurred therein out of the general fund of the county.

3
4 **209.260 Fee for filing and indexing.** The county governing body, by resolution
5 or order, may establish the fee to be collected by the county surveyor for filing and
6 indexing a map or report of a survey.

7
8 **244.020 Definitions.** As used in this chapter, unless the context requires
9 otherwise:

10
11 (1) "Actual conflict of interest" means any action or any decision or
12 recommendation by a person acting in a capacity as a public official, the effect of
13 which would be to the private pecuniary benefit or detriment of the person or the
14 person's relative or any business with which the person or a relative of the person
15 is associated unless the pecuniary benefit or detriment arises out of circumstances
16 described in subsection (13) of this section.

17
18 (2) "Business" means any corporation, partnership, proprietorship, firm,
19 enterprise, franchise, association, organization, self-employed individual and any
20 other legal entity operated for economic gain but excluding any income-producing
21 not-for-profit corporation that is tax exempt under section 501(c) of the Internal
22 Revenue Code with which a public official or a relative of the public official is
23 associated only as a member or board director or in a nonremunerative capacity.

24
25 (3) "Business with which the person is associated" means:

26 (a) Any private business or closely held corporation of which the person or
27 the person's relative is a director, officer, owner or employee, or agent or
28 any private business or closely held corporation in which the person or the
29 person's relative owns or has owned stock, another form of equity interest,
30 stock options or debt instruments worth \$1,000 or more at any point in the
31 preceding calendar year.

1 *****

2 (d) For public officials required to file a statement of economic interest
3 under ORS 244.050, any business listed as a source of income as required
4 under ORS 244.060(3).

5 *****

6
7 (13) "Potential conflict of interest" means any action or any decision or
8 recommendation by a person acting in a capacity as a public official, the effect of
9 which could be to the private pecuniary benefit or detriment of the person or the
10 person's relative, or a business with which the person or the person's relative is
11 associated, * * *.

12 *****

13
14 (15) "Public official" means the First Partner and any person who, when an alleged
15 violation of this chapter occurs, is serving the State of Oregon or any of its political
16 subdivisions or any other public body as defined in ORS 174.109 as an elected
17 official, appointed official, employee or agent, irrespective of whether the person is
18 compensated for the services.

19 *****

20
21 **244.040 Prohibited use of official position or office; exceptions; other**
22 **prohibited actions.** (1) Except as provided in subsection (2) of this section, a
23 public official may not use or attempt to use official position or office to obtain
24 financial gain or avoidance of financial detriment for the public official, a relative or
25 member of the household of the public official, or any business with which the
26 public official or a relative or member of the household of the public official is
27 associated, if the financial gain or avoidance of financial detriment would not
28 otherwise be available but for the public official's holding of the official position or
29 office.

30 ///

31 ///

1 (2) Subsection (1) of this section does not apply to:

2 (a) Any part of an official compensation package as determined by the
3 public body that the public official serves.

4 * * * * *

5 (c) Reimbursement of expenses.

6 * * * * *

7
8 (7) The provisions of this section apply regardless of whether actual conflicts of
9 interest or potential conflicts of interest are announced or disclosed under ORS
10 244.120.

11
12 **244.120 Methods of handling conflicts; Legislative Assembly; judges;
13 appointed officials; other elected officials or members of boards.**

14 * * * * *

15 (2) An elected public official, other than a member of the Legislative Assembly, or
16 an appointed public official serving on a board or commission, shall:

17 (a) When met with a potential conflict of interest, announce publicly the
18 nature of the potential conflict prior to taking any action thereon in the
19 capacity of a public official; or

20 (b) When met with an actual conflict of interest, announce publicly the
21 nature of the actual conflict and:

22 (A) Except as provided in subparagraph (B) of this paragraph, refrain
23 from participating as a public official in any discussion or debate on the
24 issue out of which the actual conflict arises or from voting on the issue.

25
26 **OAR 199-005-0035 Guidelines for compliance with ORS 244.020(6), 244.025,
27 244.040, 244.042 and 244.047**

28 * * * * *

29 (2) The term "official duties" means that the public official's actions are directly
30 related to serving the state of Oregon or any of its political subdivisions or any
31 other public body as a public official.

1 (3) An "official compensation package" means the wages and other benefits
2 provided to the public official. To be part of the public official's "official
3 compensation package", the wages and benefits must have been specifically
4 approved by the public body in a formal manner, such as through a union contract,
5 an employment contract, or other adopted personnel policies that apply generally
6 to employees or other public officials. "Official compensation package" also
7 includes the direct payment of a public official's expenses by the public body, in
8 accordance with the public body's policies.

9
10 (4) As used in ORS 244.040(2)(c), "reimbursement of expenses" means the
11 payment by a public body to a public official serving that public body, of expenses
12 incurred in the conduct of official duties on behalf of the public body. Any such
13 repayment must comply with any applicable laws and policies governing the
14 eligibility of such repayment. Expenses paid by the public body to their own public
15 officials need not be reported by the public official under ORS 244.060.

16 * * * * *

17
18 **INVESTIGATION:** The Oregon Government Ethics Commission (Commission) initiated
19 a preliminary review based on information in a signed complaint from Carl Stout. Mr. Stout
20 alleged that Grant County Surveyor Michael Springer may have used his official position
21 to financially benefit himself and his private business. Mr. Stout alleged that Mr. Springer
22 used County funds to remonument corners needed for private surveys being conducted
23 by Benchmark and that he was invoicing Grant County for reviewing Benchmark's
24 surveys, when the surveys were actually reviewed by the Union County Surveyor. (#PR1).

25
26 In his response, Michael Springer denies Mr. Stout's allegations and explains that the
27 Grant County Surveyor position is part time, with a total annual compensation of less than
28 \$6,000. Because the County does not own any surveying equipment, it was his policy "to
29 simply utilize [my] private company's equipment and vehicles and then submit an itemized
30 invoice for reimbursement." He asserts that Benchmark's invoices to Grant County are in
31 accordance with Oregon statutes. Mr. Springer also explains that when Benchmark

1 completes plats or partitions, they are reviewed by the Union County Surveyor.
2 Benchmark pays review fees to Union County, and then separately pays those same
3 review fees a second time to Grant County when the reviewed plats or partitions are
4 submitted for indexing and filing. Benchmark recoups these double-paid fees when it
5 submits quarterly invoices to Grant County for reimbursement of the services Michael
6 Springer performs as the Grant County Surveyor. (#PR7).

7
8 On May 31, 2019, after considering the information developed in preliminary review, the
9 Commission found cause to open an investigation. The focus of the investigation was to
10 determine whether there is sufficient evidence to indicate that Michael Springer violated
11 ORS 244.040(1) and 244.120(2) by using his position as the Grant County Surveyor to
12 financially benefit Benchmark and by failing to disclose a conflict of interest. Mr. Springer
13 and Mr. Stout were notified of the Commission's actions in this matter and invited to
14 provide any information that would assist the Commission in conducting this investigation.

15 16 County Surveyors

17 In Oregon, county surveyors are responsible, pursuant to ORS 209.070(5) and (6), for
18 maintaining the infrastructure of Public Land Survey System Corners, primarily through
19 corner monuments. These monuments are permanent markers, such as stone
20 monuments or wrought iron posts with brass caps, used to mark the fixed position of
21 corners. The corner monuments are then used as established markers in private surveys.
22 The expenses incurred for corner monumentation or remonumentation are paid out of the
23 County Public Land Corner Preservation Fund, per ORS 203.148.

24
25 County surveyors also review and approve plats for partitions, subdivisions, and
26 condominiums. Since a county surveyor cannot review and approve his own plats
27 (completed in his private capacity or by his private surveying company), those plats must
28 be submitted to a county surveyor in a separate county for review and approval. [ORS
29 92.100]. County surveyors also review survey maps, but according to Michael Springer,
30 it is a superficial review, just to see if they conform to statute. (#IR1). There is no
31 requirement that survey maps completed by a county surveyor in his private capacity be

1 submitted to a separate county for review. Finally, county surveyors are responsible for
2 indexing and maintaining a record of all plats, maps and survey reports [ORS 209.070];
3 the county may establish fees for this filing and indexing [ORS 209.260].

4
5 Grant County Surveyor

6 Michael Springer was elected to the position of Grant County Surveyor in November
7 2008, and took office in January 2009. Before this date, he worked for Bagett, Griffith &
8 Blackman Land Surveyors (BGB). BGB was owned by Robert Bagett, who previously
9 held the position of Grant County Surveyor. When Robert Bagett retired in early 2009,
10 Michael Springer and his business partner, Jason Hatfield, purchased BGB's John Day
11 office and established Benchmark. (#IR1).

12
13 The Grant County Surveyor has no County office. Instead it is located in Benchmark's
14 offices in John Day. The telephone number and e-mail address for the Grant County
15 Surveyor are those for Benchmark. (#IR2). According to Michael Springer, the County
16 has no surveying equipment of its own and has provided him with only one very old
17 computer. All of the equipment, vehicles, and computers that Michael Springer uses to
18 perform his duties as County Surveyor belong to Benchmark. (#IR1).

19
20 Compensation and Reimbursement

21 ORS 209.080 provides that the compensation for the county surveyor "shall be as
22 determined by the county court or board of commissioners, and paid out of the county
23 treasury." Notwithstanding this statute, Michael Springer receives no "compensation"
24 from Grant County. According to Jim Carpenter, Grant County Counsel, "Michael Springer
25 does not have an official compensation package and does not receive any wages or
26 benefits associated with his elected position as Grant County Surveyor." (#IR3). Instead,
27 Mr. Springer is paid for the work he does through reimbursements.

28
29 The County receives quarterly invoices for the work performed by Michael Springer.
30 Commission staff reviewed all of the invoices from April 1, 2015 to June 23, 2019. (#IR4).
31 These quarterly invoices generally include the following line items:

- 1 • surveyor's retainer \$912 (increased to \$990 in 2019)
- 2 • records and upkeep \$500
- 3 • land partition plat reviews varies (\$160-\$180 each)
- 4 • map and survey reviews varies (\$10 each)
- 5 • corner preservations varies

6

7 The invoices then provide additional detail for the land partition plat reviews, survey map
 8 reviews, and corner preservations. Other invoices include line items for work, such as
 9 topographic surveys, done for the County road department or the County Court. Still other
 10 invoices include line items for conference registration, hotel and travel expenses. (#IR4).

11

12 In his interview, Michael Springer explained that the retainer is there to compensate him
 13 for fielding questions from the public, doing research for the road department and other
 14 county officials. He does not bill out on an hourly basis, but just uses the retainer. (#IR1).

15

16 Notably, almost all of the invoices are submitted by Benchmark, rather than by Michael
 17 Springer. The total amount invoiced by Benchmark during the period from April 2015 to
 18 June 2019 was \$127,104.42. (#IR4; #IR5). Grant County provided copies of the checks,
 19 showing that all these payments were made to Benchmark. (#IR6). During this same
 20 period, Michael Springer only submitted five invoices, totaling \$1,921.73, seeking
 21 reimbursement for conference, hotel and travel expenses. (#IR4; #IR5).

22

23 Although the invoices are submitted by Benchmark, the County has no contracts with
 24 Benchmark, nor are there any procurement files relating to any of the payments made to
 25 Benchmark. (#IR1; #IR3). According to Michael Springer, everything is paid as
 26 reimbursement. The payments Benchmark receives are reimbursement for the work
 27 Michael Springer has done as County Surveyor. He asserts that the County has used this
 28 system for 50 years. He also indicated that at least 11 other counties use a similar type
 29 of reimbursement system. (#IR1). As a sample from one of the other counties, Mr.
 30 Springer provided a copy of an addendum to a personal services contract between
 31 Jefferson County and Gary DeJarnatt, the Jefferson County Surveyor. (#IR7).

1 The letter from Jim Carpenter, Grant County Counsel, appears to confirm that this
2 reimbursement process has been in place for quite some time:

3
4 Grant County is satisfied with the work that Springer does as the elected Grant
5 County Surveyor, and is satisfied with the reimbursement process of compensating
6 Springer for his time and the use of his equipment. The model that Grant County
7 uses for an elected surveyor is common to many smaller counties. Grant County
8 and these other counties simply cannot afford to purchase the equipment,
9 software, etc., or the regular upgrades necessary to perform the limited functions
10 of the elected county surveyor. The benefit to the County of having a private full-
11 time surveyor who is capable of providing these services and resources is
12 substantial. (#IR3).

13
14 Corner Remonumentation

15 The complaint in this case alleges that Michael Springer uses his position as County
16 Surveyor to remonument corners, at the County's expense, needed for surveys that
17 Benchmark is doing for private clients. Specifically, the complaint asserts that if Michael
18 Springer finds surveys corners "that he needs for control of a private job he is doing,
19 Springer will remonument the corner or otherwise bring it up to state requirements as
20 Grant County Surveyor, bill the county, and the next day (or as shown on his plat) find the
21 updated corner as part of the private survey[,] thus benefitting his client by using county
22 funds to update a needed corner." (#PR1).

23
24 Among the Benchmark invoices, Commission staff reviewed 24 invoices for corner
25 restorations. Each invoice identifies corner section references and the specific corners
26 (N, SE, S1/4, etc.) being restored or remonumented. (#IR4). Commission staff then
27 examined the private surveys involving these same corner section references, as indexed
28 on the Grant County Surveyor's website. We looked at the dates of the private surveys,
29 as compared to the corner restoration invoices, and whether the private surveys included
30 the specific corners that had been restored or remonumented. Among the 24 invoices,
31 there was only one invoice where Benchmark invoiced the County for a corner restoration

1 one month prior to Benchmark recording a private survey involving the same corner. For
2 the remaining 23 invoices, the restored corners were used in private surveys, but those
3 private surveys either pre-dated the restorations or were many months later. (#IR8).

4

5 Double Billing for Plat Review Fees

6 ORS 92.100(1) requires that all plats (partition, subdivision or condominium) completed
7 by a private surveyor must be reviewed and approved by the county surveyor. A county
8 surveyor who completes a plat in their private capacity cannot approve their own plat;
9 instead, ORS 92.100(4) requires the county surveyor to submit their private plats to the
10 county surveyor in a separate county for review and approval.

11

12 For plats it prepares for property located in Grant County, Benchmark submits the plats
13 to the Union County Surveyor for review and approval. Benchmark pays Union County
14 for that review/approval, at Grant County's established rates. After the plats are approved,
15 Benchmark then submits them to Grant County to be recorded and indexed. According
16 to Michael Springer, Benchmark pays the plat review fees twice – once to Union County
17 for the review/approval and a second time to Grant County for the recording/indexing.
18 Benchmark then recoups the second payment by including it in its quarterly invoices to
19 Grant County. (#PR7). In his interview, Michael Springer explained that the main reason
20 for the double billing is accountability, so that others can track that Benchmark is actually
21 paying for the plat reviews. (#IR1).

22

23 During the period at issue, Benchmark invoiced Grant County for 28 plat reviews. (#IR4).
24 The index on the County Surveyor's website indicates that 19 of these 28 plats were
25 prepared by Benchmark. Commission staff obtained the transaction ledgers showing
26 Benchmark's payments to Union County (#IR9) and to Grant County (#IR10). The Union
27 County transaction ledger indicates that from April 2015 to June 2019, Benchmark made
28 27 payments to Union County for plat reviews (#IR9); however, the transaction ledger
29 does not specify which, if any, of these plat reviews was for property located in Grant
30 County. The Grant County transaction ledger shows Benchmark payments for over 30
31 plat reviews. (#IR10).

1 Unfortunately, because the transaction ledgers include only limited information,
2 Commission staff could not determine whether the payments to the two counties are for
3 the same plat reviews or whether they match up with the plat reviews itemized in
4 Benchmark's invoices to Grant County.

5
6 Survey Map Review Fees

7 Unlike plats, survey maps receive only a superficial review to ensure that they conform
8 with statutory requirements. (#IR1). County surveyors who prepare survey maps in their
9 private capacity are not required to submit those survey maps to a separate county for
10 review.

11
12 ORS 209.260 directs that the county governing body "may establish the fee to be
13 collected by the county surveyor for filing and indexing a map or report of a survey." Grant
14 County established such a fee in 2010, with Ordinance 10-01. (#PR9). This ordinance
15 provides for a "fee of \$10.00 for the first sheet and \$10.00 for each additional sheet for
16 filing survey maps that meet the requirements of ORS 209.250." (#PR9).

17
18 During the period at issue, Benchmark invoiced Grant County for 90 survey map reviews.
19 (#IR4). The index on the County Surveyor's website indicates that 52 of the 90 survey
20 maps were prepared by Benchmark. It appears from the Grant County transaction ledger
21 that Benchmark paid the fees of \$10 per survey map to Grant County. (#IR10).
22 Benchmark's invoices then indicate it recouped the survey map fees it had paid. (#IR4).

23
24 **CONCLUSIONS:** Michael Springer is the elected Grant County Surveyor and held that
25 position during the period relevant to this investigation. As an elected official, Mr. Springer
26 is a public official as defined in ORS 244.020(15).

27
28 A conflict of interest means any action, decision, or recommendation by a person acting
29 in their capacity as a public official, the effect of which would or could be to the private
30 financial benefit or detriment of the person, their relative, or a business with which they
31 or their relative are associated. An actual conflict of interest exists if the effect of the official

1 action, decision or recommendation would have a financial impact on the public official,
2 their relative, or a business with which they or a relative are associated. A potential conflict
3 of interest exists if the effect of the official action, decision, or recommendation could have
4 a financial impact on the public official, their relative, or a business with which they or their
5 relative are associated. [ORS 244.020(1) and 244.020(13)].

6
7 An elected public official such as Mr. Springer, when met with a conflict of interest, is
8 required to publicly announce the nature of the conflict of interest. Then if the conflict of
9 interest is potential, the public official may proceed to take action on the matter giving rise
10 to the conflict. If the conflict of interest is actual, the public official must refrain from
11 participating in the matter out of which the official's conflict arises. [ORS 244.120(2)(a)
12 and (b)]. In this case, Michael Springer has not disclosed any conflicts of interest.

13
14 ORS 244.040(1) prohibits a public official from using or attempting to use the official's
15 position to obtain a financial benefit or avoid a financial detriment for the public official, a
16 relative or household member, or a business with which the public official or relative or
17 household member is associated, if the financial benefit would not otherwise be available
18 but for the public official's holding the official position. This prohibition does not apply to
19 a public official's official compensation package or to reimbursement of expenses. [ORS
20 244.040(2)(a) and (c)].

21
22 A business includes any corporation, firm, or other legal entity operated for economic
23 gain, but excluding income producing 501(c) corporations with which the person is
24 associated only as a member, board director, or in a nonremunerative capacity. [ORS
25 244.020(2)]. A business with which a person is associated includes any private business
26 or closely held corporation of which the person is a director, officer, owner, employee or
27 agent. [ORS 244.020(3)(a)]. It also includes any business listed as a source of income on
28 a public official's statement of economic interest. [ORS 244.020(3)(d)].

29
30 In this case, Benchmark is a closely held corporation and Michael Springer is an owner
31 and officer of that corporation. As the elected county surveyor, Michael Springer is

1 required by ORS 244.050 to file a statement of economic (SEI) interest. Mr. Springer lists
2 Benchmark as a source of income on his SEI. Accordingly, Benchmark is a business with
3 which Michael Springer is associated for purposes of analysis under ORS Chapter 244.

4
5 There is a preponderance of evidence in this case indicating that Michael Springer used
6 his position as the Grant County Surveyor to benefit Benchmark, his private company,
7 and that he failed to disclose his conflicts of interest relating to these matters.

8
9 Corner Remonumentations

10 A public official who used their position to complete work needed for their private business
11 would violate ORS 244.040(1). In this case, the complaint alleged that Michael Springer
12 used his position to remonument corners needed for private surveys being completed by
13 Benchmark.

14
15 Our examination of Benchmark's invoices for corner restorations and of the index of
16 private surveys reveals that while some of the remonumented corners appear in private
17 surveys completed by Benchmark, the timing does not suggest that the two events
18 (remonumentations and private surveys) are necessarily linked. Information available
19 during this investigation is insufficient to support a finding that Michael Springer used his
20 position to remonument corners needed for Benchmark's private surveys.

21
22 Benchmark Reimbursements

23 ORS 244.040(1) prohibits a public official from using their official position to financially
24 benefit their private business if that financial benefit would not otherwise be available but
25 for their holding the official position. In this case, between April 2015 and June 2019,
26 Benchmark invoiced Grant County and Grant County paid Benchmark \$127,104.42, even
27 though Benchmark does not have a contract with Grant County. These payments
28 represent a financial benefit to Benchmark that would not otherwise be available but for
29 Michael Springer holding his official position.

30 ///

31 ///

1 The prohibition in ORS 244.040(1) does not apply to a public official's official
2 compensation package or to any reimbursement of expenses as these terms are defined
3 in the Oregon Administrative Rules.

4
5 OAR 199-005-0035(3) provides that an "official compensation package' means the
6 wages and other benefits provided to the public official." Such wages and benefits must
7 be formally approved by the public body. Official compensation package may also include
8 the direct payment of a public official's expenses in accordance with the public body's
9 policies. In this case, according to the Grant County Counsel, "Michael Springer does not
10 have an official compensation package and does not receive any wages or benefits
11 associated with his elected position as Grant County Surveyor."

12
13 OAR 199-005-0035(4) defines "reimbursement of expenses" as "the payment by a public
14 body to a public official serving that public body, of expenses incurred in the conduct of
15 official duties on behalf of the public body." (emphasis added). Michael Springer asserts
16 that the County's payments to Benchmark are reimbursement for Michael Springer's
17 services and his use of Benchmark's equipment. An examination of the invoices indicates
18 Benchmark was being paid for work that Michael Springer completed. Such payments
19 could qualify as reimbursement of expenses if the payments were made to the public
20 official. In this case, however, Grant County did not pay \$127,204.42 to Michael Springer;
21 it paid Benchmark. These payments do not appear to qualify as "reimbursement of
22 expenses," and do appear to violate ORS 244.040(1).

23
24 To illustrate how a county surveyor in another county conducts his official duties, Michael
25 Springer provided a portion of a personal services contract between Jefferson County
26 and Gary DeJarnatt, the Jefferson County Surveyor. While we do not have the entire
27 contract, the portion we do have is quite illuminating, and demonstrates where Grant
28 County's reimbursement process has gone awry. Jefferson County has contracted with
29 the public official, not his private company, and the contract sets forth the rates of
30 compensation to be paid to that official. Payments to the public official made under such
31 a contract would appear to fall within the definition of official compensation package, and

1 thus would not violate ORS 244.040(1). The Jefferson County method of operation
2 appears to be a model that Grant County could follow to ensure that its elected surveyor
3 remains in compliance with Oregon Government Ethics law in the future.

4
5 Plat and Survey Map Review Fees

6 It does appear from the invoices and transaction ledgers that Benchmark is paying plat
7 review fees to both Union County and Grant County, and then recouping the double-paid
8 fees from Grant County when it submits its quarterly invoices. This double-billing system
9 is somewhat baffling and seems burdensome and unnecessary. It does not, however,
10 appear to violate ORS 244.040.

11
12 The same cannot be said for Benchmark's recoupment of the survey map fees.
13 Benchmark's survey maps are not reviewed by Union County. Instead, Benchmark
14 submits its survey maps to Michael Springer, as the Grant County Surveyor, for what Mr.
15 Springer describes as a "superficial review." The survey maps are then filed and indexed.
16 As required by Grant County Ordinance 10-01, Benchmark, like every other surveyor,
17 pays the \$10 fee for filing the survey maps. Unlike every other surveyor, Benchmark then
18 recoups those survey map fees in its quarterly invoices to Grant County.

19
20 From April 2015 to June 2019, there were 90 separate survey maps filed and indexed; 52
21 of the 90 were filed by Benchmark. Benchmark paid \$520 to file these survey maps and
22 then turned around and collected \$520 back from Grant County. The effect of
23 Benchmark's process makes it seem as if Benchmark never really pays to file and index
24 its survey maps. This recoupment of survey map fees violates ORS 244.040(1). But for
25 Michael Springer's official position, Benchmark would not be able to recoup its survey
26 map fees.

27
28 **RECOMMENDATIONS:** The Oregon Government Ethics Commission should make
29 preliminary findings that Michael Springer engaged in a prohibited use of office, resulting
30 in two violations of ORS 244.040(1), and failed to disclose his conflicts of interest, thus
31 violating ORS 244.120(2). (Motion 10).

1 **ASSOCIATED DOCUMENTS:**

- 2 #PR1 Complaint from Carl Stout, received on 3/29/19.
3 #PR2 Exhibits 1-5 attached to complaint.
4 #PR3 Exhibit 6, attached to complaint.
5 #PR4 Supplemental exhibit 1, received from Carl Stout on 4/25/19.
6 #PR5 Supplemental exhibit 2, received from Carl Stout on 4/25/19.
7 #PR6 Supplemental exhibit 3, received from Carl Stout on 4/25/19.
8 #PR7 Response from Michael Springer, received on 4/4/19.
9 #PR8 Additional response from Michael Springer, received on 4/25/19.
10 #PR9 Grant County Ordinance 10-01.
11 #IR1 Memorandum re contact with Michael Springer, dated 9/17/19.
12 #IR2 Grant County Surveyor website, <https://grantcountyoregon.net/267/Surveyor>
13 #IR3 Letter from Jim Carpenter, Grant County Counsel, received 10/15/19.
14 #IR4 Invoices from Benchmark Land Surveying and Michael Springer.
15 #IR5 Spreadsheet of Benchmark/Springer Invoices.
16 #IR6 Copies of Grant County checks, payable to Benchmark and to Springer.
17 #IR7 Addendum to Agreement, Jefferson County, dated 6/13/18.
18 #IR8 Spreadsheet of Benchmark Corner Restorations.
19 #IR9 Transaction Ledger showing Benchmark payments to Union County.
20 #IR10 Transaction Ledger showing Benchmark payments to Grant County.

PREPARED BY

Susan Myers
Susan Myers
Investigator

11/14/19
Date

APPROVED BY

Ronald A. Bersin
Ronald A. Bersin
Executive Director

11/14/19
Date

REVIEWED BY

Amy E. Alpaugh
Amy E. Alpaugh
Assistant Attorney General

11/14/19
Date

5

**Enrolled
Senate Bill 1049**

Sponsored by Senator COURTNEY, Representative KOTEK

CHAPTER

AN ACT

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:**

5

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

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

(7) A member becomes vested in the 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 retirement, 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 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) 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 account 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 retirement 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 individual 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 li-

abilities 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 fire-fighters 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 timely 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 unreceipted 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 unreceipted 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 unreceipted 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 unreceipted 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 declared to exist, and this 2019 Act takes effect on its passage.

Passed by Senate May 23, 2019

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House May 30, 2019

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

.....
Bev Clarno, Secretary of State