

## Chapter 239

### 1955 REPLACEMENT PART

## Retirement Plan For School District Employees

### DEFINITIONS

239.002 Definitions

### ORGANIZATION AND ADMINISTRATION

239.102 Teachers' retirement fund association  
239.104 Plan of organization; school board approval  
239.106 Approval of plan by teachers  
239.108 Adoption and revocation of bylaws  
239.110 Election of incorporators  
239.112 Duties of incorporators; election of trustees  
239.114 Notice of meetings  
239.116 Board of trustees is governing body  
239.118 Powers and duties of board of trustees  
239.120 Officers of the association  
239.122 Employees of the association  
239.124 Annual report  
239.126 Annual audit  
239.128 Additional audit; statement of default; remedies against delinquent associations  
239.130 School board expenses

### MEMBERSHIP

239.202 Membership generally  
239.204 Membership prior to January 1, 1944  
239.206 Eligibility to membership of certain non-member teachers employed prior to 1944

### SERVICE RETIREMENT BENEFITS

239.302 Funds to be maintained  
239.304 Expense fund  
239.306 Annuity fund  
239.308 Pension fund  
239.310 Contributions to annuity fund by members  
239.312 Deductions from salary; direct payment  
239.314 Election to receive refunding annuity  
239.316 Election to provide annuity at age other than 65  
239.318 Members entitled to make election  
239.320 Number of times election may be exercised  
239.322 Adjustment of contribution differential after election of annuity plan  
239.324 Schedules fixed by trustees subject to approval of school board  
239.326 Consideration of findings of actuary  
239.328 Factors which determine the schedule  
239.330 Limitations on rates  
239.332 Rates fixed to make equal annual payments  
239.334 Payment of deficiencies due to stoppage of salary  
239.336 Payment of deficiencies by teachers who were members prior to January 1, 1944; payment of regular assessments by such members  
239.338 Termination of employment prior to retirement; refund of credits  
239.340 Death of member prior to retirement; refund of credits  
239.342 Retirement on application; effective date of retirement  
239.344 Payment of benefits from annuity fund on retirement

239.346 Amount of retirement pension from pension fund  
239.348 Retirement pension increased to \$50 per month for certain active members upon purchase of additional annuity  
239.350 Retirement pension increased to \$50 per month for certain retired members upon purchase of additional annuity  
239.352 Method of payment of additional annuity purchased pursuant to ORS 239.348 or 239.350  
239.354 Additional retirement pension for certain active members without purchase of additional annuity  
239.356 Additional retirement pension for certain retired members without purchase of additional annuity  
239.358 Dates and method of payments to retired members  
239.360 Use of excess credits at retirement  
239.362 Payment of benefits on re-employment  
239.364 Disposal of unused credits on death of retired member who has elected a refunding annuity

### DISABILITY BENEFITS

239.402 Meaning of disability  
239.404 Determination of disability  
239.406 Filing of disability certificate  
239.408 Eligibility for disability benefits  
239.410 Refund of credits to members not eligible for benefits  
239.412 Payment of annuity to disabled member  
239.414 Amount of disability pension for members who are under 40 at the time of joining the association  
239.416 Amount of disability pension for members who were over 40 at the time of joining the association  
239.418 Additional disability pension for certain retired members  
239.420 School board payments to pension fund to pay disability pensions  
239.422 Continuing vested disability benefits  
239.424 Method of pension payments  
239.426 No disability payments while member receives other payments from school district; 60 day waiting period  
239.428 Date and manner of disability benefit payments  
239.430 Re-examinations; filing of results  
239.432 Refusal to be re-examined; discontinuation of disability payments; disposal of unused credits  
239.434 Removal of disability; discontinuation of disability payments; disposal of unused credits  
239.436 Restoration of benefits to member employed after removal of disability  
239.438 Death of disability pensioner receiving refunding annuity; payment of unused credits to beneficiary

<b>ADDITIONAL SERVICE RETIREMENT AND DISABILITY BENEFITS</b>		239.504	Exemption from execution and debts
239.460	Additional service retirement and disability benefits for certain members	<b>COVERAGE OF EMPLOYEES UNDER FEDERAL SOCIAL SECURITY ACT</b>	
239.465	Method of payment of additional contribu- tions and additional benefits	239.730	Definitions
<b>MODIFICATION OF PLAN IF MEMBERS COVERED UNDER FEDERAL SOCIAL SECURITY ACT</b>		239.735	Declaration of policy regarding federal social security coverage for school dis- trict employees
239.482	Definitions	239.740	Referendum
239.484	Benefits	239.745	Authority to enter into agreement ex- tending federal social security benefits to employees
239.486	Assessments and contributions	239.750	Requirements of agreement
239.488	Benefits for retired members not covered by agreement	239.755	Effect of entering into agreement
<b>EXEMPTION OF BENEFITS</b>		<b>PENALTIES</b>	
239.502	Exemptions from taxation	239.990	Penalties

## CROSS REFERENCES

Public employees' retirement generally, Ch. 237	239.740
Retirement of teachers upon reaching age 65, 342.330	Referendum validated in certain cases, 1955 c.733 §5
239.735	
Public employees' generally, extension of federal social security benefits to, 237.410 to 237.520	

**DEFINITIONS**

**239.002 Definitions.** As used in this chapter, unless the context requires otherwise:

(1) "Association" means a teachers' retirement fund association organized pursuant to this chapter in a school district as defined in this section.

(2) "Schedule of assessments and contributions" means a compilation of all mathematical and financial factors necessary to determine the assessments or contributions to be paid by each member of an association. It includes the amount of reserves which a member is required to create with the association in order to provide annuities at retirement in accordance with the provisions of this chapter. It also includes a statement of the mortality and interest rates assumed in calculating the reserves and a statement of the interest rate which it is assumed will be credited to the account of a member from the effective date of the schedule to the date of retirement.

(3) "School board" means the board of directors of a school district as defined in this section.

(4) "School district" means any district having more than 10,000 children of school age.

(5) "Teachers" includes superintendents, supervisors and principals, as well as instructors in the employ of school districts as defined in this section.

**239.004 to 239.100** [Reserved for expansion]

**ORGANIZATION AND ADMINISTRATION**

**239.102 Teachers' retirement fund association.** (1) The teachers employed in a school district may, with the consent and approval of the school board, establish an association to be known as teachers' retirement fund association, which shall have duties, powers and privileges as provided in this chapter and in the general laws of this state.

(2) Any plan for the establishment of an association shall include a provision for incorporation pursuant to the laws governing the organization of religious, charitable and educational corporations, except as otherwise provided in this chapter.

**239.104 Plan of organization; school board approval.** (1) Whenever the teachers in a school district desire to avail themselves of the privileges of this chapter, they shall formulate a plan for the incorporation and organization of an association, and the collection and disbursement of the funds for the benefit of retired teachers in the district.

(2) This plan shall be submitted to the school board for approval. When the plan is approved by the school board, the association so established and incorporated may receive, collect, invest, loan and disburse funds in accordance with the plan.

**239.106 Approval of plan by teachers.** No association shall be incorporated or commence to collect and disburse funds until the plan proposed by the teachers is approved in writing by a majority of all the teachers in employ of the school district. At the time of incorporation, there shall be filed with the articles of incorporation an affidavit made by the clerk of the school district to the effect that a majority of the teachers have approved in writing the formation of the association.

**239.108 Adoption and revocation of by-laws.** (1) The association may from time to time adopt bylaws, consistent with this chapter, amending or amplifying the plan formulated under ORS 239.104. The bylaws shall be adopted by the association subject to the approval of the school board and shall be effective after the date of approval.

(2) The school board may at any time, upon 90 days' written notice to the board of trustees of the association, withdraw its approval of any bylaw previously approved, in which case such bylaws shall be of no effect after the date when a certified copy of the withdrawal of approval is filed by the school board with the board of trustees after a lapse of the 90 day period of notice.

**239.110 Election of incorporators.** When the plan has been approved by the school board, a meeting of the teachers qualified to be members of the association shall be called by the board, to be held at such time and place as the board may appoint, for the purpose of selecting three or more persons to act as incorporators and trustees of the association until it is fully organized.

**239.112 Duties of incorporators; election of trustees.** (1) The incorporators shall execute and file articles of incorporation as

by law provided, and shall receive and act upon applications for membership in such association until 300 members have been elected.

(2) Thereupon the incorporators shall call a meeting of the members elected, to be held at such time and place as they shall designate. At this meeting the corporation shall be fully organized by the election of trustees and other officers, and adoption of bylaws for the government of the association. The trustees elected at the meeting shall be successors of the incorporators selected at the meeting provided for in ORS 239.110.

**239.114 Notice of meetings.** (1) Notice of the meetings under ORS 239.110 and 239.112 shall be given five days before such meeting by posting the same in three public places within the district.

(2) Notice of the meeting of the teachers under ORS 239.110 shall be signed by the clerk of the school district.

(3) Notice of the meeting under ORS 239.112 shall be signed by the incorporators or a majority.

**239.116 Board of trustees is governing body.** The management and administration of the affairs of the association, under a plan formulated pursuant to this chapter and under the bylaws adopted by the association, shall be vested in a board of trustees of seven members elected by the members of the association.

**239.118 Powers and duties of board of trustees.** The board of trustees shall have the following powers and duties:

(1) To formulate bylaws for submission to the association for adoption.

(2) To fix from time to time, subject to approval by the school board, the schedules of assessments or contributions to be paid into the annuity fund by members of the association.

(3) To provide for the payment of retirement annuities and pensions and disability retirement annuities and pensions to members of the association to whom such payments become payable under this chapter, subject to the bylaws adopted by the association and approved by the school board.

(4) To invest and reinvest moneys paid into the annuity fund by members of the association, and to do all things necessary and

desirable to the proper investment, management and safekeeping of the funds.

(5) To determine, before the time that a member of the association has attained the retirement age prescribed by this chapter, whether the reserve created with the assessments or contributions paid by the member into the annuity fund is sufficient, with interest credited thereon, to provide the annuity prescribed by this chapter.

(6) To determine, before the time that a member becomes disabled as defined in this chapter, whether the reserve created with the assessments or contributions paid by the member into the annuity fund is sufficient, with interest credited thereon, to meet the requirements of this chapter with respect to the schedule of assessments or contributions to be maintained to provide the prescribed annuity at retirement age.

(7) To provide, in compliance with the bylaws of the association, the manner in which deficiencies in the reserves under subsections (5) and (6) of this section shall be made up by a member.

(8) To appropriate annually out of the annuity fund to the expense fund, in the manner prescribed in this chapter, the funds to be used in paying the costs and expenses of administering and managing the affairs of the association.

(9) To hire, with the approval of the school board, actuaries and accountants.

(10) To prepare and submit to the school board an annual report.

(11) To administer the business and affairs of the association and to perform any and all functions required by this chapter.

(12) To receive, hold, sell, mortgage and otherwise dispose of real and personal property, either by gift or purchase or in any other lawful ways, and also to loan and invest the funds of the association in such manner as the officers of the association may deem best and as may be provided by its articles of incorporation and bylaws.

**239.120 Officers of the association.** (1) The board of trustees shall elect the officers of the association. They shall be members of the board of trustees and active members of the association.

(2) The officers shall be a president, a vice president, a secretary and a treasurer.

(3) The officers shall be elected in the manner and for such terms as determined by the bylaws adopted by the association with the approval of the school board.

**239.122 Employees of the association.** The board of trustees may hire and define the duties of an executive secretary and such other employees as it deems necessary to properly administer and manage the affairs of the association.

**239.124 Annual report.** The association shall, on or before April 1 of each calendar year, prepare and file with the school board a complete annual report of the finances and affairs of the association, containing among other things the following:

(1) The name of each active member, the amount of the reserve of each active member on the records of the association, the monthly assessments and contributions being paid by each active member, and the amount of the deficiency if any in the reserve of each active member under ORS 239.336.

(2) The name of each retired member who retired at the retirement age pursuant to this chapter, the date on which the member retired, the age of the member at retirement, the amount of the reserve credited to the member on the records of the association at retirement and the amount of the annuity which the reserve will provide for the member.

(3) The name of each member who has retired on account of disability, pursuant to this chapter, the date on which the member retired, the amount of the reserve of the member when disability was certified and the amount of the annuity which the reserve will provide for the member.

(4) The amount of each monthly annuity and pension payment made to each member who has retired at the retirement age pursuant to this chapter.

(5) The amount of each monthly disability annuity and pension payment made to each member who has retired on account of disability pursuant to this chapter.

(6) A statement setting forth separately the aggregate amounts paid during the calendar year, immediately preceding the date on which the annual report is filed, and the aggregate amounts estimated to be paid in the calendar year in which the annual report is filed, for retirement annuities, disability retirement annuities, retirement pensions and disability retirement pensions.

(7) The schedule fixed to determine the assessments or contributions to be paid by the members of the association.

(8) A statement setting forth the total

costs and expenses of administering and managing the association during the calendar year immediately preceding the date on which the annual report is filed.

(9) A statement estimating the costs and expenses of administering and managing the association for the calendar year in which the annual report is filed.

(10) A statement listing the total assets of the association as of the last day of the calendar year immediately preceding the date on which the annual report is filed.

**239.126 Annual audit.** (1) On or before April 1 of each calendar year, the board of trustees of the association shall cause the books, records and accounts of the association to be audited by a certified public accountant selected annually by the board of trustees and the school board, and equally responsible to both boards.

(2) A copy of the audit report, certified by the accountant, shall be filed with the school board, together with the annual report. The annual audit shall cover the calendar year immediately preceding the date of the filing of the annual report and shall contain a statement of the assets of the association reflecting acquisition costs and an estimate of fair market value, and a statement of the liabilities of the association, as of the close of the calendar year.

(3) The cost of completing the annual audit and of preparing the audit report shall be divided equally between the association and the school district.

**239.128 Additional audit; statement of default; remedies against delinquent associations.** (1) The school board may require the certified public accountant to make such additional audit or examination of the assets, liabilities and affairs of an association, in addition to the annual report, as the board deems necessary. The cost of the audit shall be divided equally between the association and the school district.

(2) On or before July 1 of each calendar year, the school board shall file with the association a statement specifying the acts, practices or procedures of the association alleged to be illegal.

(3) If the association fails, within 90 days after receiving a statement of default, to make good the default or rectify the non-compliance with law, the school board may bring suit in the circuit court of the county in which the school district is located for a declaratory judgment and decree to establish

the rights, duties and obligations of the association with respect to the illegal acts, practices or procedures and for such relief, mandatory or otherwise, as the court shall adjudge or decree.

(4) Concurrently with or as an alternative to the remedies in subsection (3) of this section, the school board may withhold the payment of all or any part of any further moneys payable by it to the association under this chapter until the default is rectified or until the association complies with law in the particulars certified by the board.

(5) The remedies provided in this section are not exclusive of any other right or remedy which the school board may have to enforce the provisions of this chapter.

**239.130 School board expenses.** The school board of a school district in which an association has been organized pursuant to this chapter may expend from the general fund of the school district such sums of money as are necessary for the payment of attorneys, actuaries, physicians, surgeons, clerk hire and such other costs and expenses as are incurred by the school board in the performance of its powers and duties under this chapter in the enforcement of its provisions.

**239.132 to 239.200** [Reserved for expansion]

### MEMBERSHIP

**239.202 Membership generally.** Any teacher who, as a result of an election by the school board, accepts employment for a period of one year or more after January 1, 1944, in a school district in which an association has been organized pursuant to this chapter, and whose total possible years of service in the school district after so accepting employment prior to reaching the age of compulsory retirement as prescribed by law is not less than 20 full school years, shall be deemed to have applied for membership in and been elected a member of such association and shall be subject to the provisions of, and entitled to the benefits under, the plan administered by the association; provided, that any teacher who is a member of the Public Employees' Retirement System and who, after July 15, 1949, accepts employment in the school district, may elect to remain a member of the Public Employees' Retirement System or become a member of the association, but if the election is not made within 60 days after the teacher is

elected by the school board to teach in the district, he shall automatically remain a member of the Public Employees' Retirement System. The election shall be made by giving written notice to the Public Employees' Retirement Board, the school board and the board of trustees of the association. The association shall, immediately upon the school board's election of a teacher to teach in the school district, inform him of his right to exercise an election as provided in this section.

**239.204 Membership prior to January 1, 1944.** All members of any association organized prior to January 1, 1944, pursuant to chapter 280, Oregon Laws 1911, as amended, shall remain members of the association subject to the provisions of this chapter; provided, that any person who was a member prior to January 1, 1944, and who, prior to July 1, 1944, withdrew by written notice of intention so to do, is ineligible for membership in the association.

**239.206 Eligibility to membership of certain nonmember teachers employed prior to 1944.** Any teacher who was on July 1, 1929, employed by a school district in which an association had been organized pursuant to chapter 280, Oregon Laws 1911, as amended, and who was on that date eligible to become a member of the association, and who on January 1, 1944, was employed by such school district and had been continuously so employed since July 1, 1929, and who is not a member of the association, may become a member by complying with the provisions of this chapter and by paying into the annuity fund the amount necessary to create a reserve sufficient, when increased by the amount of assessments and contributions which the member will be required to pay into the annuity fund between the date of becoming a member and the date of retirement, to provide at the retirement age an annuity in the amount prescribed by this chapter and by applying for such membership on or before September 1, 1953. Any such teacher who fails to apply for membership in such association on or before September 1, 1953, shall thereafter be ineligible for membership in such association. The association shall adopt bylaws to prescribe the time and manner of paying such amount into the annuity fund. [Amended by 1953 c.265 §3]

**239.208 to 239.300** [Reserved for expansion]

**SERVICE RETIREMENT BENEFITS**

**239.302 Funds to be maintained.** An association organized under this chapter shall create and maintain an expense fund, an annuity fund and a pension fund as provided in this chapter.

**239.304 Expense fund.** The expense fund shall consist of such amounts as are annually appropriated from the annuity fund by the board of trustees of the association, and shall be used exclusively to defray the costs and expenses of administering and managing the affairs of the association. The board of trustees in making such appropriation each year shall take into account a deficit or surplus in the fund from the preceding year.

**239.306 Annuity fund.** The annuity fund shall consist of all of the assets of the association except the expense fund and the pension fund, and shall include the assessments or contributions paid to the association by the members.

**239.308 Pension fund.** The pension fund shall consist of amounts paid by the school board as follows:

(1) The school board shall levy and collect annually, as part of the taxes levied and collected for school purposes, a tax sufficient in the aggregate, together with all fines, penalties and forfeitures collected or received by the school district from teachers or other employees of the school district for violation of any rule, regulation or law adopted or enacted for the government of such teachers and employees, to pay to each member of the association who has attained the age of 60 years or over and has been retired a pension as provided in this chapter.

(2) Upon certification as of the due date thereof by the board of trustees of the association, the school board shall pay into the pension fund monthly, out of the taxes levied and collected and other moneys collected for that purpose, the monthly pension payments currently due to retired members of the association.

**239.310 Contributions to annuity fund by members.** Each member shall pay into the annuity fund assessments or contributions, in compliance with schedules fixed by the board of trustees and approved by the school board, sufficient in the aggregate to provide a straight annuity at age 65 as follows:

(1) To each member who was, on July 1, 1929, under the age of 45 years, an annuity of \$37.50 per month for life.

(2) To each member who had, on July 1, 1929, attained the age of 45 years and was under the age of 55 years, an annuity of \$25 per month for life.

(3) To each member who had, on July 1, 1929, attained the age of 55 years, an annuity of \$17.50 per month for life.

**239.312 Deductions from salary; direct payment.** The school board shall deduct from the salary due each member of the association employed in the school district the amounts due, under the provisions of this chapter, as assessments or contributions and the amounts due as payments required on account of any deficiency, upon certification of such amounts by the board of trustees of the association. The amounts deducted shall be paid by the school board to the association for deposit in the annuity fund. However, a member may pay assessments or contributions directly to the association in larger sums or at more frequent intervals than are required by the schedule of assessments or contributions.

**239.314 Election to receive refunding annuity.** (1) A member at any time prior to retirement may, by written application filed with the association, elect to receive the straight annuity under ORS 239.310 with the added provision that if the member dies before receiving annuity payments equal to the amount to his credit on the books of the association at the time of his retirement, there shall be paid to a beneficiary named by the member or to his estate the excess of such amount over the annuity payments received. Such annuity is referred to in this chapter as a refunding annuity.

(2) In the event that a member elects to receive a refunding annuity, the member shall pay into the annuity fund the amount of the appropriate assessments or contributions as provided in schedules fixed by the board of trustees with the approval of the school board.

**239.316 Election to provide annuity at age other than 65.** At any time prior to retirement, a member may elect whether the assessments or contributions shall be paid into the annuity fund, in accordance with schedules fixed by the board of trustees and approved by the school board, in amount sufficient in the aggregate to provide an

annuity upon attaining the age of 60 years or any later age up to and including 65 years.

**239.318 Members entitled to make election.** Any member of an association organized pursuant to chapter 280, Oregon Laws 1911, as amended, is entitled to exercise the elections provided in this chapter. In so electing he shall be subject to all the requirements of this chapter with respect to the payment of assessments or contributions in compliance with this chapter.

**239.320 Number of times election may be exercised.** A member may, prior to retirement, exercise the elections provided for in ORS 239.314 and 239.316 as many times as he desires.

**239.322 Adjustment of contribution differential after election of annuity plan.** (1) If the reserve of a member in the annuity fund is less than the amount required to provide the annuity which the member has elected to receive, the amount of such deficiency arising after January 1, 1944, on schedules fixed pursuant to this chapter, shall be paid into the annuity fund at the time the election is exercised or at the time and in the manner provided in the bylaws of the association.

(2) If the reserve of a member in the annuity fund is more than the amount required to provide the annuity which the member has elected to receive, the amount of such excess shall be held in the reserve as part of the amount available to provide the member with an annuity at the time he retires.

**239.324 Schedules fixed by trustees subject to approval of school board.** The schedule determining the assessments or contributions which shall be paid into the annuity fund by members of the association after January 1, 1944, shall be fixed by the board of trustees in the manner provided in ORS 239.326 to 239.332 and shall be subject to the approval of the school board.

**239.326 Consideration of findings of actuary.** An accredited actuary shall be selected annually by the board of trustees and approved by the school board. The chosen actuary shall be responsible to both the board of trustees and the school board. The board of trustees shall fix the schedules in compliance with sound actuarial practice and after consideration of the findings of the actuary.

**239.328 Factors which determine the schedule.** In calculating the assessments or contributions to be paid by the members there shall be taken into account:

(1) Age and sex of members.

(2) Capital gains and losses realized and incurred on the investment of the annuity fund.

(3) The actual current and actuarially anticipated costs of retirement annuities and disability retirement annuities payable to retired members or to become payable to members on retirement.

(4) The costs and expenses of the association payable out of appropriations from the annuity fund.

**239.330 Limitations on rates.** The schedule rates shall not be more than is needed to:

(1) Meet the actual current and actuarially anticipated costs of retirement annuities and disability retirement annuities payable or to become payable to retired members.

(2) Recapture the excess of capital losses over capital gains incurred or reasonably anticipated on the investment of the annuity fund.

(3) Pay the costs and expenses of administration and management payable out of appropriations from the annuity fund.

(4) Create a surplus in the annuity fund which shall not exceed 15 percent of the fair market value of the total assets of the association which constitute the annuity fund.

**239.332 Rates fixed to make equal annual payments.** The rates of assessments or contributions to be paid by each member of the association shall be so fixed that a member shall pay equal and annual payments which in the aggregate, with interest credited thereon, total the reserve necessary to pay to the member at retirement the annuity prescribed by this chapter.

**239.334 Payment of deficiencies due to stoppage of salary.** If a member is deficient in his payment of assessments or contributions, due to leave of absence or sick leave which has occasioned the stoppage of salary, the member shall make up the deficiency within a period computed by the allowance of two years for each calendar year or fraction of a calendar year that the member was on such leave of absence or sick leave.

**239.336 Payment of deficiencies by teachers who were members prior to January 1, 1944; payment of regular assessments by**



such members. Any active member of an association organized pursuant to this chapter, who became a member of the association prior to January 1, 1944, and whose reserve in the annuity fund on that date is less than would have been accumulated by him if he had paid assessments or contributions in accordance with the full schedules previously adopted by the association for the annuity elected by the member, shall pay into the annuity fund the amount of such deficiency at such time and in such amounts, either before or at retirement, as is provided by the by-laws of the association. In addition to any payments required on account of such deficiency, such members shall pay regular assessments or contributions from and after January 1, 1944, in the same amount as if no deficiency existed, as provided by the full schedules adopted from time to time pursuant to the provisions of this chapter.

**239.338 Termination of employment prior to retirement; refund of credit.** If, prior to retirement, the employment of a member of the association in the school district is terminated, his membership in the association shall terminate and there shall be refunded to him the amount standing to his credit on the books of the association, including interest thereon to the date the employment is terminated.

**239.340 Death of member prior to retirement; refund of credits.** If any member of the association dies before attaining the age of retirement specified by this chapter, there shall be refunded to the beneficiary named by the deceased member or to his estate the full amount of the sums standing to the credit of the member, including interest credited thereon.

**239.342 Retirement on application; effective date of retirement.** Any member of the association after attaining the age of 60 years shall, on written application to the board of trustees and the school board, be retired from service and be entitled to receive the annuity and pension payments provided in this chapter commencing as follows:

(1) If the member was performing his duties as a teacher on the date of filing the application, then from the last day of the school term immediately following the date of filing application.

(2) If the member was not performing his duties as a teacher on the date of filing the application, then from the date of filing application.

**239.344 Payment of benefits from annuity fund on retirement.** A member, after retirement under ORS 239.342, shall receive from the annuity fund either a straight annuity or a refunding annuity, in accordance with his election, as provided in this chapter.

**239.346 Amount of retirement pension from pension fund.** A member, after retirement under ORS 239.342, shall receive from the pension fund a pension as follows:

(1) To each member who, on July 1, 1929, was under the age of 45 years, a pension of \$37.50 per month for life.

(2) To each member who, on July 1, 1929, had attained the age of 45 years and was under the age of 55 years, a pension of \$50 per month for life.

(3) To each member who, on July 1, 1929, had attained the age of 55 years, a pension of \$57.50 per month for life.

**239.348 Retirement pension increased to \$50 per month for certain active members upon purchase of additional annuity.** An active member of the association who is under 65 years of age on June 30, 1949, may qualify to receive a pension of \$50 per month for life from the pension fund after retirement at the age of 60 years or over by giving written notice thereof, prior to July 2, 1949, to the school board and the board of trustees of the association and by paying assessments and contributions, in compliance with the schedule of assessments or contributions, which in the aggregate are sufficient to provide an annuity at retirement and for life of \$37.50 per month plus \$1 per month for each calendar year or fraction thereof which will elapse after June 30, 1949, to and including the date on which the member attains the age of 65 years; provided no member is required to provide an annuity in excess of \$50 per month to qualify for the \$50 pension provided in this section.

**239.350 Retirement pension increased to \$50 per month for certain retired members upon purchase of additional annuity.** A retired member of the association who was under the age of 65 years on June 30, 1949, and who retired after June 30, 1944, at the age of 60 years or over may qualify to receive a pension of \$50 per month for life from the pension fund after June 30, 1949, by giving written notice thereof, prior to July 2, 1949, to the school board and the board of trustees of the association and by

paying into the annuity fund prior to that date assessments and contributions which in the aggregate shall be sufficient to provide an annuity after June 30, 1949, and for life, of \$37.50 per month plus \$1 per month for each calendar year or fraction thereof which will elapse from the date on which the member retired to and including the date on which the member attains the age of 65 years.

**239.352 Method of payment of additional annuity purchased pursuant to ORS 239.348 or 239.350.** The assessments or contributions required under ORS 239.348 or 239.350 shall be computed on the basis of a straight annuity. However, if such member elects to receive a refunding annuity pursuant to ORS 239.314 and has paid the assessments or contributions sufficient to provide such refunding annuity, he shall be paid after retirement and for life a refunding annuity in the amount per month which the reserve standing to the credit of the member on the records of the association shall provide him in accordance with schedules fixed by the board of trustees of the association with the approval of the school board.

**239.354 Additional retirement pension for certain active members without purchase of additional annuity.** Each active member of the association who was under the age of 65 years on June 30, 1949, and who has not elected to pay into the annuity fund assessments and contributions in accordance with the requirements of ORS 239.348 shall be paid a monthly pension out of the pension fund, in addition to the pension of \$37.50 per month provided for in ORS 239.346, in an amount computed by deducting from \$12.50 the sum of \$1 for each calendar year and fraction of a calendar year which will elapse from June 30, 1949, to and including the date on which the member attains the age of 65 years; provided the additional pension payment so computed shall in no event be in excess of \$11 per month.

**239.356 Additional retirement pension for certain retired members without purchase of additional annuity.** (1) Each retired member of the association who was under the age of 65 years on June 30, 1949, and who retired after June 30, 1944, at the age of 60 years or over and who has not elected to pay into the annuity fund assessments and contributions in accordance with the requirements of ORS 239.350 shall be paid a

pension of \$11 per month from the pension fund in addition to the pension of \$37.50 per month provided in ORS 239.346.

(2) Each retired member of the association who retired for service and who had attained the age of 65 years prior to July 2, 1949, shall be paid a pension of \$11 per month for life after June 30, 1949, in addition to the monthly pension provided in ORS 239.346.

**239.358 Dates and method of payments to retired members.** The annuity and pension payments provided for in this chapter shall be paid to a retired member of the association as follows:

(1) On the first day of the calendar month following the date of retirement there shall be paid to the retired member an amount equal to that percentage of the full annuity and pension payments that the member is entitled to receive each month which the number of days intervening between the date of retirement and the first day of the first calendar month following the date of retirement bears to the total number of days in the calendar month in which retirement occurs.

(2) On the first day of each calendar month, following the date of the first payment as prescribed in subsection (1) of this section, there shall be paid to the retired member for life the full annuity and pension payments which the retired member is entitled to receive each month under the provisions of this chapter.

(3) Immediately after the date on which a retired member dies, there shall be paid to the estate of the deceased member an amount equal to that percentage of the full annuity and pension payments that the deceased member was entitled to receive each month while living which the number of days intervening between the last day of the calendar month immediately preceding the date of death and the day following the date of death bears to the total number of days in the calendar month in which death occurred. However, if the first payment made to such member exceeded the amount required to be paid under subsection (1) of this section, the excess shall be deducted from any amount due under this subsection.

(4) If any member of the association who has retired pursuant to this chapter, dies prior to the date on which the first annuity and pension payments are payable as provided in this section, then there shall be

paid to the estate of the deceased member an amount equal to that percentage of the full annuity and pension payments that the deceased member was entitled to receive each month under the provisions of this chapter, which the number of days intervening between the date of retirement and the day following the date of death bears to the total number of days in the calendar month in which retirement occurred.

**239.360 Use of excess credits at retirement.** The excess of the amount standing to the credit of a member on the books of the association at retirement, including interest credited thereon to the date of retirement, over the amount necessary to provide to the member on the date of retirement a straight or refunding annuity in the amount prescribed by this chapter, in accordance with the election of the member, shall be refunded to the member on retirement or shall be used to provide a larger annuity to the member, as the member may elect.

**239.362 Payment of benefits on reemployment.** Any member of an association who is retired under this chapter is entitled to receive the monthly annuity and pension payments for life, regardless of whether the member is employed after the date of retirement as a teacher or otherwise. However, if the retired member is employed by the school district in which the association is organized, no pension payments shall be made for the period of such employment.

**239.364 Disposal of unused credits on death of retired member who has elected a refunding annuity.** On the death of a retired member who has elected to receive a refunding annuity, there shall be paid to the beneficiary named by the deceased member or to his estate, the excess of the sums credited to the member on the books of the association at the time of his retirement, including interest credited thereon to the date of retirement, over the annuity payments received by the deceased member.

**239.366 to 239.400** [Reserved for expansion]

## DISABILITY BENEFITS

**239.402 Meaning of disability.** A member of the association is disabled, within the meaning of that term as used in this chapter, when, as a result of illness or accident, he is, and probably will be during the remainder

of his life, unable to perform his duties as a school teacher.

**239.404 Determination of disability.** (1) The fact of existence of disability shall be established by findings of the school board. The board of medical examiners shall consist of three doctors licensed to practice medicine in this state, to be selected by the school board.

(2) The board of medical examiners shall prepare and file with the school board, with respect to each member of the association who is examined by the board for the purpose of ascertaining the ability of a member to perform his duties as a school teacher, a report setting forth the facts as to the physical and mental condition of the member examined and containing the recommendation of the board of medical examiners as to whether the school board should or should not find the member disabled.

(3) The total costs and expenses of examination and re-examination of members of an association incurred by the school board for the purpose of establishing or determining the existence of disability, with respect to retirement of a member on account of disability, shall be paid by the school district in which the association is organized.

### 239.406 Filing of disability certificate.

(1) If the school board finds that a member examined is disabled, it shall prepare and file with the board of trustees of the association a report setting forth the findings and the facts upon which the findings were based and certify such disability to the board of trustees.

(2) The report and certificate of disability shall be filed by the school board with the board of trustees within a period of 30 days after the filing of the medical report by the board of medical examiners with the school board.

(3) The fact of disability of a member, for the purposes of this section, shall be accepted by the board of trustees of the association as established on the date on which the certificate is filed with them.

(4) The provisions of ORS 239.402 to 239.406 shall not affect the rights of any teacher under the teachers' tenure law.

**239.408 Eligibility for disability benefits.** If, after January 1, 1944, any member of the association under the age of 60 years is certified disabled as provided in ORS

239.406 and has completed not less than 1800 days of actual teaching service as a regularly appointed teacher in the school district prior to the date of the certification of disability, the member is entitled to the disability retirement annuity and disability retirement pension payments provided for in this chapter.

**239.410 Refund of credits to members not eligible for benefits.** If a member of the association has not completed, on the date of the certification of disability, 1800 days of actual teaching service as a regularly appointed teacher in the school district, no disability retirement annuity or pension payments shall be made to the member, but there shall be refunded to the member the amount standing to the credit of the member on the books of the association, including interest credited thereon to the date of the certification of disability.

**239.412 Payment of annuity to disabled member.** If a member of the association has, on the date of certification of disability, completed 1800 days of actual teaching service as a regularly appointed teacher in the school district, there shall be paid to the member for as long as he lives and the disability continues a straight or refunding annuity, as he shall have elected, in the amount per month which the amount standing to the credit of the member on the books of the association, including interest credited thereon to the date of the certification of disability, shall provide him, in accordance with schedules fixed by the board of trustees with the approval of the school board.

**239.414 Amount of disability pension for members who were under 40 at the time of joining the association.** If a member of an association was, on the date of joining the association, not older than 40 years of age, last birthday, and becomes entitled to a disability retirement pension under ORS 239.408, the amount of such pension shall be determined by the proportion of the disability coverage period, which is defined as the period between the date on which the member completes 1800 days of actual teaching service as a regularly appointed teacher in the school district and the date on which the member will attain the age of 60 years, which has elapsed prior to the date of certification of disability, as follows:

(1) If at the date of certification of disability, less than one-fifth of the disability

coverage period has elapsed, the disability retirement pension shall be \$57.50 per month for as long as the member lives and the disability continues.

(2) If at the date of certification of disability, one-fifth of the disability coverage period, but less than two-fifths of such period, has elapsed, the disability retirement pension shall be \$52.50 per month for as long as the member lives and the disability continues.

(3) If at the date of certification of disability, two-fifths of the disability coverage period, but less than three-fifths of such period, has elapsed, the disability retirement pension shall be \$47.50 per month for as long as the member lives and the disability continues.

(4) If at the date of certification of disability, three-fifths of the disability coverage period, but less than four-fifths of such period, has elapsed, the disability retirement pension shall be \$42.50 per month for as long as the member lives and the disability continues.

(5) If at the date of certification of disability, four-fifths or more of the disability coverage period has elapsed, the disability retirement pension shall be \$37.50 per month for as long as the member lives and the disability continues.

**239.416 Amount of disability pension for members who were over 40 at the time of joining the association.** If a member joins the association at an age older than 40 years, last birthday, and becomes entitled to a disability pension under ORS 239.408, the amount of such pension shall be \$35 per month plus a sum equal to \$2.50 multiplied by the number equal to the difference between 60 years and the age of the member, last birthday, at the date of certification of disability.

**239.418 Additional disability pension for certain retired members.** Each retired member of the association who retired on account of disability prior to July 1, 1949, shall be paid a pension of \$11 per month after June 30, 1949, and for as long as the member lives and the disability continues, in addition to the disability pension provided for in ORS 239.414 and 239.416.

**239.420 School board payments to pension fund to pay disability pensions.** The school board shall pay into the pension fund, from time to time, out of the taxes levied and

collected and other moneys collected for the purposes of this chapter, and upon certification of the board of trustees of the association, the monthly disability retirement pension payments currently due to members of the association who have retired on account of disability.

**239.422 Continuing vested disability benefits.** Any member of the association who retired on account of disability prior to January 1, 1944, shall receive disability annuity and pension payments in the monthly amount which he was receiving prior to that date.

**239.424 Method of pension payments.** A member of the association who has been retired on account of disability in accordance with this chapter shall receive from the association disability retirement annuity and pension payments in the manner provided in ORS 239.426 and 239.428.

**239.426 No disability payments while member receives other payments from school district; 60 day waiting period.** No disability retirement annuity or pension payments shall be made for any period in which a member is receiving any other payments from the school district for sick leave, salary or otherwise, or in any event for a period of 60 days after the date on which the certificate of disability is filed by the school board with the board of trustees of the association. If disability is found not to exist during the 60 day period, no disability retirement annuity or pension payments shall be made by reason of the filing of a certificate of disability.

**239.428 Date and manner of disability benefit payments.** (1) On the first day of the first calendar month following the date on which the 60 day period under ORS 239.426 expires, there shall be paid to the retired member an amount equal to that percentage of the full disability retirement annuity and pension payments that the member is entitled to receive for a full year of disability under this chapter, which the number of days intervening between the date of the filing of the certificate of disability by the school board and the first day of the first calendar month following the date of the expiration of the 60 day period bears to the total days in the calendar year in which the 60 day period expired.

(2) On the first day of each calendar

month, following the date of the first payment under subsection (1) of this section, there shall be paid to the retired member for as long as he lives and the disability continues, the full disability retirement annuity and pension payment which the retired member is entitled to receive each month under this chapter.

(3) Immediately after the date on which a retired member dies, or the date on which a certificate is filed by the school board with the board of trustees of the association stating that the previously established disability of a retired member no longer exists, there shall be paid to the estate of the deceased member, or to the member whose previously established disability is found to no longer exist, as the case may be, an amount equal to that percentage of the full disability retirement annuity and pension payments that the member was entitled to receive each month under this chapter, which the number of days intervening between the last day of the last preceding calendar month prior to the date of death or removal of disability, as the case may be, and the day following the date of death or the day following the filing of the certificate certifying removal of disability, as the case may be, bears to the total number of days in the calendar month in which the retired member died or a certificate is filed stating that disability no longer exists.

**239.430 Re-examinations; filing of results.** (1) A member of an association who has been retired on account of disability may, while under the age of 65 years, be required by the school board to be re-examined by the board of medical examiners, or by such other physicians as the board of medical examiners shall designate.

(2) The board of medical examiners, or other examining physician, when directed so to do by the school board, shall prepare and file with the school board a report on the re-examination setting forth the facts as to the physical and mental condition of the retired member examined and the recommendation of the board of medical examiners as to whether the school board should or should not find that the previously established disability still exists.

(3) If the school board finds that the previously established disability of a retired member no longer exists, the board shall prepare and file with the board of trustees of the association a certificate to that effect.

(4) The fact of removal of disability shall be accepted by the board of trustees as established on the date on which the certificate is filed with it.

**239.432 Refusal to be re-examined; discontinuation of disability payments; disposal of unused credits.** If any member retired on account of disability, while under the age of 60 years, refuses to submit to medical examinations by the board of medical examiners, or by a physician designated by the board of medical examiners, his disability retirement pension payments shall be discontinued until the withdrawal of such refusal. If the refusal continues for one year, all rights to disability pension payments shall be forfeited and he shall elect whether the excess of the amount standing to his credit on the books of the association, including interest credited thereon to the date when the disability was first certified, over the aggregate disability retirement annuity payments received by him, shall be refunded to him or remain in the annuity fund to his credit to provide him with an annuity.

**239.434 Removal of disability; discontinuation of disability payments; disposal of unused credits.** The disability retirement annuity and pension payments under this chapter shall cease on the date on which a certificate of disability removal is filed by the school board with the board of trustees and the excess of the amount standing to the credit of the member on the books of the association, including interest credited thereon to the date of retirement because of disability, over the aggregate disability retirement annuities received by the member shall remain in the annuity fund to his credit to provide an annuity for him at retirement.

**239.436 Restoration of benefits to member employed after removal of disability.** If a member who has been retired on account of disability returns to the employ of the school district as a teacher at the time of the removal of disability and pays into the annuity fund, from the date of return to the date of retirement as specified in this chapter, the full schedule of assessments or contributions fixed in compliance with this chapter, he shall be entitled to receive the full retirement pension payments provided in this chapter in the same manner as if his employment in the school district had not been interrupted by the disability retirement.

**239.438 Death of disability pensioner receiving refunding annuity; payment of unused credits to beneficiary.** If a member who has been retired on account of disability pursuant to this chapter dies, and if he had elected to receive a refunding annuity, as provided in ORS 239.412, there shall be paid to the beneficiary named by the deceased member or to his estate, the excess of the amount standing to the credit of the member on the books of the association, including interest credited thereon to the date of retirement, over the disability retirement annuity payments received by him.

**239.440 to 239.455** [Reserved for expansion]

### **ADDITIONAL SERVICE RETIREMENT AND DISABILITY BENEFITS**

**239.460 Additional service retirement and disability benefits for certain members.**

(1) Whenever in any school district in this state in which there has been organized an association pursuant to the provisions of this chapter, the teachers who are active members of the association shall approve the same by majority vote in writing and the board of directors of said school district shall consent thereto by resolution, there shall be paid to members of said association annuity and pension benefits as in this section provided. In the event the schedules of assessments and contributions to the annuity fund, and the schedules of annuity and pension benefits, as provided for in this section, are approved by the active members of the association and are consented to by the board of directors of the school district, as herein provided, they shall at the same time provide the date on which said schedules shall go into effect, which said date shall not be later than July 1, 1954, and shall be the "effective date" wherever said term is used in this section.

(2) An active member of the association who on the effective date is under the age of 65 years, and who shall retire on or after the effective date at the age of 60 years or over, and who has qualified to receive a pension of \$50 per month pursuant to the provisions of ORS 239.348, and who elects to pay into the annuity fund assessments and contributions, in addition to the assessments and contributions required by ORS 239.302 to 239.336 and as required by ORS 239.348, which in the aggregate shall

be sufficient at retirement to provide an additional annuity in amount of \$2.50 per month for each calendar year or fraction of a calendar year which will elapse from and after the effective date to and including the date on which said member shall attain the age of 65 years, shall receive out of the pension fund at and after the effective date of this Act and for so long as said member shall live, in addition to the pension of \$37.50 as provided by ORS 239.346, plus the increased pension provided for by ORS 239.348, a pension of \$25 per month; provided, however, that no active member shall be required to provide an annuity in excess of \$75 per month in order to qualify for the maximum amount of increased pension payable out of the pension fund pursuant to the provisions of ORS 239.348 and pursuant to the provisions of this section.

(3) An active member of the association who on the effective date is under the age of 65 years, and who shall retire on or after the effective date at the age of 60 years or over, and who has not qualified to receive a pension of \$50 per month pursuant to the provisions of ORS 239.348, and who at any time within 60 days after the effective date shall elect to qualify for a pension of \$50 per month as provided for in ORS 239.348, and who elects to pay into the annuity fund assessments and contributions, in addition to the assessments and contributions required by ORS 239.302 to 239.336 and as required by ORS 239.348, which in the aggregate shall be sufficient at retirement to provide an additional annuity in amount of \$2.50 per month for each calendar year or fraction of a calendar year which will elapse from and after the effective date to and including the date on which said member shall attain the age of 65 years, shall receive out of the pension fund at and after the effective date of this Act and for so long as said member shall live, in addition to the pension of \$37.50 provided by ORS 239.346, plus the increased pension provided for by ORS 239.348, a pension of \$25 per month; provided, however, that no active member shall be required to provide an annuity in excess of \$75 per month in order to qualify for the maximum amount of increased pension payable out of the pension fund pursuant to the provisions of ORS 239.348 and pursuant to the provisions of this section.

(4) An active member of the association who on the effective date is under the age of 65 years, and who shall retire on or

after the effective date at the age of 60 years or over, and who at the time of retirement at the age of 60 years or over has not qualified, and does not then qualify under subsection (3) of this section, to receive a pension of \$50 per month pursuant to the provisions of ORS 239.348, shall receive a monthly pension out of the pension fund, in addition to the pension of \$37.50 per month provided for in ORS 239.346, and in addition to the increased pension provided for in ORS 239.354, in an amount computed by deducting from \$25 the sum of \$2.50 for each calendar year and fraction of a calendar year which will elapse from and after the effective date to and including the date on which said member shall attain the age of 65 years, which said increased pension shall be paid to each said member out of the pension fund from and after the effective date and for so long as said member shall live.

(5) A member of the association who on July 1, 1949, was under the age of 65 years, and who retired or will retire at any time on or after July 1, 1949, on account of disability, in accordance with the provisions of ORS 239.402 to 239.438, shall receive a pension out of the pension fund, at and after the effective date, in addition to the pension provided for in ORS 239.414 to 239.418, of \$12.50 per month, which said pension shall be so paid for so long as said member shall live and said disability shall continue. [1953 c.301 §1]

**239.465 Method of payment of additional contributions and additional benefits.** (1)

An active or retired member who is required by the provisions of ORS 239.460 to pay into the annuity fund additional assessments and contributions as a condition to the right to receive an increased pension thereunder shall pay into the annuity fund the assessments and contributions therein specified in addition to all assessments and contributions required by ORS 239.302 to 239.336 and as required by ORS 239.348. Likewise, the board of directors of the school district shall pay into the pension fund, in accordance with the provisions of ORS 239.308, the amounts necessary to pay the increased pension payments which become due and payable to retired members of the association pursuant to the provisions of ORS 239.460.

(2) Unless the provisions of ORS 239.460 are in conflict therewith, all of the provisions of ORS 239.302 to 239.336, shall be applicable with respect to assessments



and contributions paid pursuant to ORS 239.460, except that in the event that a member shall elect to receive a refunding annuity then said member shall pay into the annuity fund the amount of assessments and contributions, as provided in schedules fixed by the board of trustees of the association with the approval of the board of directors of the school district, sufficient in the aggregate to provide a refunding annuity in amount as provided in ORS 239.310 and 239.314, plus the amount of assessments and contributions required under ORS 239.348, and required under ORS 239.460, computed on the basis of a straight annuity, and there shall be paid to said member, after his or her retirement, and for so long as he or she shall live, a refunding annuity in an amount each month which the reserve standing to the credit of the member on the records of the association, including interest thereon to the date of the retirement of said member, shall provide him or her in accordance with schedules fixed by the board of trustees of the association with the approval of the board of directors of the school district.

(3) Pension and annuity payments due and payable to a retired member of the association pursuant to ORS 239.460 shall be paid at the times and in the manner as specified in ORS 239.342 and 239.358 to 239.364, and, likewise, assessments and contributions paid into the annuity fund pursuant to ORS 239.460 shall be subject to refund as provided in ORS 239.338, 239.340 and 239.360.

(4) Unless the provisions of ORS 239.460 are in conflict therewith, all of the provisions of ORS 239.402 to 239.438 shall be applicable with respect to pension payments made out of the pension fund on account of disability pursuant to subsection (5) of ORS 239.460. [1953 c.301 §2]

**239.470 to 239.480** [Reserved for expansion]

#### **MODIFICATION OF PLAN IF MEMBERS COVERED UNDER FEDERAL SOCIAL SECURITY ACT**

**239.482 Definitions.** As used in ORS 239.482 to 239.488, unless the context requires otherwise:

(1) "Agreement" means an agreement entered into between the State of Oregon and the Secretary of Health, Education and Welfare of the United States, or his designat-

ed agent or successor, and the modification of the existing agreement between the State of Oregon and the Secretary of Health, Education and Welfare for Old Age and Survivors Insurance coverage of employees of the State of Oregon and of the political subdivisions of the state, pursuant to which agreement or modification of an existing agreement Old Age and Survivors Insurance benefits are provided to members of the association under title 2 of the Federal Social Security Act.

(2) "Member" means any teacher who, on the date of an agreement, is an active member of the association, and who, by the provisions of the agreement, is provided Old Age and Survivors Insurance coverage. [1955 c.667 §2]

**239.484 Benefits.** If an agreement is made by the State of Oregon with the Secretary of Health, Education and Welfare, or his designated agent or successor, pursuant to the provisions of ORS 239.730 to 239.755, then there shall be paid to a member upon retirement at the age of 60 years or over, or upon retirement on account of disability, in lieu of the pension and annuity benefits provided in ORS 239.310, 239.344, 239.346, 239.348, 239.354, 239.414, 239.416, 239.418 and 239.460, pension and annuity benefits as follows:

(1) To a member who retires at the age of 60 or over, but prior to the attainment of age 65, then, during the period from the date of retirement of the member to the date on which the member shall attain the age of 65, a monthly pension benefit as provided for in ORS 239.346, 239.348, 239.354 and 239.460.

(2) To a member who retires upon attaining the age of 65, and to a member who retires at the age of 60 or over and thereafter attains the age of 65, a monthly pension benefit for life computed by reducing the monthly pension benefit specified in ORS 239.346, 239.348, 239.354 and 239.460 in the amount of one-half of the monthly Old Age and Survivors Insurance primary benefit provided the member in the agreement; provided, that the monthly pension benefit as so reduced shall not be less than \$37.50 per month.

(3) To a member who retires upon attaining the age of 60 or over, a monthly annuity benefit for life out of the annuity fund, as actuarially determined pursuant to



paragraph (a) or (b) of this subsection, as follows:

(a) The monthly annuity provided in ORS 239.310, 239.344, 239.348, 239.354 and 239.460, if the amount standing to the credit of the member on the books of the association at retirement, including interest credited thereon to the date of retirement, is in compliance with the requirements of ORS 239.310, 239.348, 239.354 and 239.460 with respect to the payment by the member to the association of assessments and contributions; or

(b) The monthly annuity actuarially determined on the basis of the amount standing to the credit of the member on the books of the association at the time of retirement, including interest credited thereon to the date of retirement, if such amount so standing to the credit of the member at retirement, including such interest so credited, is less than the amount required by ORS 239.310, 239.348, 239.354 and 239.460.

(4) To a member who retires on account of disability, a monthly pension benefit as follows:

(a) For each month after and during retirement on account of disability and prior to attainment of age 65, the disability retirement pension provided in ORS 239.414, 239.416, 239.418 and 239.460; and

(b) For each month after the attainment by the member of age 65 and for life, a monthly disability retirement pension computed by reducing the monthly disability retirement pension specified in ORS 239.414, 239.416, 239.418 and 239.460 in the amount of one-half of the monthly Old Age and Survivors Insurance primary benefit provided the member in the agreement; provided, that the monthly pension benefit as so reduced shall not be less than \$37.50 per month.

(5) To a member who retires on account of disability, a monthly annuity benefit for so long as the member shall live and the disability continues as provided in ORS 239.412. [1955 c.667 §3]

#### **239.486 Assessments and contributions.**

(1) If an agreement is made by the State of Oregon with the Secretary of Health, Education and Welfare, or his designated agent or successor, pursuant to the provisions of ORS 239.730 to 239.755, then a member shall pay into the annuity fund, from and after the date of the agreement and to the date of retirement, assessments or contributions computed by reducing the assessments or con-

tributions specified in ORS 239.310, 239.312, 239.348 and 239.460 in the amount of contributions withheld from the wages or salary of the member pursuant to the provisions of section 1400 of the Federal Internal Revenue Code; provided, that the assessments or contributions to be so paid by a member into the annuity fund shall not be less than the assessments or contributions required to be paid by ORS 239.310.

(2) In addition to assessments or contributions to be paid into the annuity fund as provided in subsection (1) of this section, the member shall be liable to pay, and shall pay, by means of withholding from wages or salary as required by the federal law, the contributions required to be withheld by section 1400 of the Federal Internal Revenue Code. The board of directors of the school district shall withhold from the wages or salary of each member the contributions as required by section 1400 of the Federal Internal Revenue Code, and the amounts so withheld shall be remitted to the Public Employees' Retirement Board of the State of Oregon in accordance with ORS 239.730 to 239.755.

(3) The assessments or contributions to be paid by a member into the annuity fund as provided in subsection (1) of this section shall be so paid in compliance with schedules fixed by the board of trustees of the association and the board of directors of the school district. A member may at his election pay into the annuity fund assessments or contributions, from and after the date of the agreement, in an amount as specified in ORS 239.310, 239.348 and 239.460, or assessments or contributions in any other amount in excess of the assessments or contributions required to be paid into the annuity fund by the provisions of this section. [1955 c.667 §4]

**239.488 Benefits for retired members not covered by agreement.** If a member of the association has retired on account of age or disability prior to the date of the execution of an agreement as provided in ORS 239.482 to 239.488, and if the member is not provided in the agreement with Old Age and Survivors Insurance primary benefits under title 2 of the Federal Social Security Act, then the monthly pension and annuity benefits as specified in this chapter shall be paid to the member in the same manner and in the same amount as if ORS 239.482 to 239.488 had not been enacted; provided, that the school board may in its discretion increase

existing pension benefits to an amount not exceeding \$75 per month. [1955 c.667 §5]

**239.490 to 239.500** [Reserved for expansion]

### EXEMPTION OF BENEFITS

**239.502 Exemptions from taxation.** The following benefits paid pursuant to ORS 239.002 to 239.500 are exempt from state, county and municipal taxes, including, but not limited to, inheritance taxes, estate taxes and taxes imposed on or measured by net income:

(1) Pension and annuity payments after retirement on account of age.

(2) Pension and annuity payments after retirement on account of disability.

(3) Refunds paid to members of the association and death benefits paid to their beneficiaries and estates.

**239.504 Exemption from execution and debts.** Any annuity or money due or payable to a member of the association pursuant to ORS 239.002 to 239.500 or the articles of incorporation or bylaws of the association is exempt from execution and is not liable for the debts or liabilities of the member.

**239.506 to 239.700** [Reserved for expansion]

### COVERAGE OF EMPLOYEES UNDER FEDERAL SOCIAL SECURITY ACT

**239.705** [1953 c.695 §1; repealed by 1955 c.733 §8]

**239.710** [1953 c.695 §2; repealed by 1955 c.733 §8]

**239.715** [1953 c.695 §3; repealed by 1955 c.733 §8]

**239.720** [1953 c.695 §3; repealed by 1955 c.733 §8]

**239.725** [1953 c.695 §4; repealed by 1955 c.733 §8]

**239.730 Definitions.** As used in ORS 239.730 to 239.755, unless the context requires otherwise, "agreement" means an agreement entered into pursuant to ORS 239.730 to 239.755 between the State of Oregon and the Secretary of Health, Education and Welfare of the United States, or his designated agent or successor, and the modification of the existing agreement between

the State of Oregon and the Secretary of Health, Education and Welfare for Old Age and Survivors Insurance coverage of employees of the State of Oregon and of the political subdivisions of the state. [1955 c.733 §1]

**239.735 Declaration of policy regarding federal social security coverage for school district employees.** In order to extend to employees of a school district who perform services in positions covered by a retirement system existing and administered by an association pursuant to ORS chapter 239, and to the dependents and survivors of such employees, the basic protection accorded to others by the Old Age and Survivors Insurance benefits provided in title 2 of the Federal Social Security Act, it is declared to be the policy of this state that, subject to the provisions of ORS 239.730 to 239.755 and not otherwise, such action may be taken by members of the retirement system and by the board of directors of the school district to provide to employees of the school district Old Age and Survivors Insurance benefits on as broad a basis as is permitted under title 2 of the Federal Social Security Act at the time an agreement is made effective with respect to the employees in accordance with title 2, section 218, subsections (d) and (f) of the Federal Social Security Act. Old Age and Survivors Insurance benefits shall be so provided to the employees by an agreement. The members of the retirement system and the board of directors of the school district may take such action as in this section authorized at any time after August 3, 1955. [1955 c.733 §2]

**239.740 Referendum.** Whenever, in any school district in this state in which a retirement system exists and is administered by an association pursuant to ORS chapter 239, the board of directors of the school district authorizes such action to be taken, a referendum shall be held as follows:

(1) A referendum by secret ballot shall be held on the question of whether service in positions covered by such retirement system shall be excluded from or included under an agreement pursuant to title 2, section 218, subsections (c) and (d) of the Federal Social Security Act.

(2) An opportunity to vote in such referendum shall be given to and shall be limited to eligible employees of the school district.

(3) The date on which the referendum

is held shall be fixed by the Governor of the State of Oregon, or by an agency or individual designated by him, and the Governor, or the agency or individual designated by him, shall give written notice of the referendum and the date fixed to the eligible employees of the school district not less than 90 days prior to the date of the referendum so fixed. The written notice of the referendum shall be given in the manner as determined by the Governor, or by the agency or individual designated by him, according to whether the Governor, or such agency or individual, is to supervise such referendum.

(4) The referendum shall be conducted under the supervision of the Governor or an agency or individual designated by him.

(5) For the purposes of the referendum, an employee of the school district shall be deemed an "eligible employee" if, at the time such referendum is held, he is in a position covered by such retirement system and is a member of such retirement system and if he is in such position at the time notice of the referendum is given as required in subsection (3) of this section; except that an employee of the school district shall not be deemed an eligible employee if, at the time the referendum is held, he is in a position to which an agreement entered into pursuant to ORS 237.414 applies, or he was in a position excluded by or pursuant to title 2, section 218, subsection (d) (5) of the Federal Social Security Act. [1955 c.733 §3]

**239.745 Authority to enter into agreement extending federal social security benefits to employees.** If a referendum is held as provided in ORS 239.735, and if a majority of the eligible employees of the school district vote in favor of including service in positions covered by the retirement system under an agreement entered into pursuant to title 2, section 218, subsections (c) and (d) of the Federal Social Security Act, then the Governor of the State of Oregon shall certify to the Secretary of Health, Education and Welfare of the United States that all the conditions as specified in title 2, section 218, subsection (d) (3) of the Federal Social Security Act have been met, and, thereupon the board of directors of the school district may make application to the Public Employees' Retirement Board for inclusion of such eligible employees in an agreement. No agreement negotiated pursuant to this section shall be executed or be effective unless and until the agreement is approved by the board

of directors of the school district. [1955 c.733 §4]

**239.750 Requirements of agreement.** The agreement authorized by ORS 239.730 to 239.755 shall contain terms and provisions and shall be executed in accordance with the following requirements:

(1) The agreement shall conform to the provisions of title 2, section 218 of the Federal Social Security Act, and amendments thereto, and applicable federal regulations adopted pursuant thereto.

(2) The agreement shall provide benefits for employees of the school district who perform services in positions covered by the agreement, and their dependents and survivors, on the same basis as though such services to the school district constituted employment within the meaning of title 2 of the Federal Social Security Act.

(3) All services performed in the employment of the school district, which constitute employment within the meaning of title 2 of the Federal Social Security Act, shall be covered by the agreement if:

(a) Such services are performed by employees of the school district in positions covered by the retirement system on the date of the agreement (other than employees to whose services an agreement entered into pursuant to ORS 237.414 applies); or

(b) Such services are performed by employees of the school district in positions which become covered by the retirement system at any time after the date of the agreement.

(4) The agreement shall include all employees of the school district designated in subsection (3) of this section as a "coverage group" within the meaning of the term as defined by title 2, section 218, subsection (c) of the Federal Social Security Act.

(5) The agreement shall be effective with respect to services performed after an effective date specified in such agreement, but in no event earlier than December 31, 1954, if the agreement is executed prior to 1958, or in no event earlier than the last day of the calendar year preceding the year in which such agreement is executed by the Secretary of Health, Education and Welfare and by the Governor or an agency or individual designated by him, if the agreement is executed after 1957.

(6) Upon the approval of the agreement by the board of directors of the school district, the agreement shall be executed in be-

half of the State of Oregon and of the board of directors of the school district by the Governor, or by an agency or individual designated by the Governor so to act. [1955 c.733 §6]

**239.755 Effect of entering into agreement.** In the event that an agreement is entered into as authorized by ORS 239.730 to 239.755 providing Old Age and Survivors Insurance benefits to employees of the school district:

(1) The school district shall be liable for the contributions required to be remitted by an employer under the provisions of section 1410 of the Federal Internal Revenue Code, and amendments thereto, from the date on which the agreement shall become effective in accordance with the terms thereof; and the board of directors of the school district shall levy and collect, as part of the taxes levied and collected annually for school purposes, a tax in sufficient amount in the aggregate to pay the contributions required of an employer under the provisions of section 1410 of the Federal Internal Revenue Code from the effective date as so specified in the agreement.

(2) The school district shall be liable for and shall withhold from wages and salaries otherwise payable to employees of the school district covered by the agreement the contributions required to be withheld from wages and salaries of employees under the provisions of section 1400 of the Federal Internal Revenue Code, and amendments thereto, and such withholding shall be made from and after the date of execution of the agreement.

(3) All employer and employee contributions collected and withheld by the school district as in this section provided and all other moneys received or collected by the school district under ORS 239.730 to 239.755 shall be remitted by the school district to the Public Employees' Retirement Board created by ORS 237.251, and all such moneys so remitted shall be deposited by the Public Employees' Retirement Board as provided in ORS 237.490. All moneys so deposited hereby are appropriated for the purposes of ORS 239.730 to 239.755. All claims against the moneys so deposited shall be certified and audited, and all disbursements therefrom shall be made as specified in ORS 237.490. The moneys so remitted and deposited shall be disbursed for the purpose of paying the

amounts required to be paid to the Secretary of the Treasury of the United States pursuant to the agreement entered into under ORS 239.730 to 239.755 and for the purpose of paying the expenses incurred in the administration of ORS 239.730 to 239.755 as authorized in ORS 239.730 to 239.755.

(4) An association administering a retirement system covering services in positions which are covered by the agreement made pursuant to ORS 239.730 to 239.755 shall appropriate out of the annuity fund of the association and remit to the Public Employees' Retirement Board on the date of the execution of the agreement an amount equal to the sum which would have been withheld by the school district from wages and salary of employees covered by the agreement prior to the date of the execution of the agreement, as required by section 1400 of the Federal Internal Revenue Code if the agreement had been executed on the effective date specified therein. The school district shall levy and collect a tax in sufficient amount to pay and to remit to the Public Employees' Retirement Board an amount equal to the sum which would have been so levied, collected and remitted prior to the date of the execution of the agreement, as required by section 1410 of the Federal Internal Revenue Code if the agreement had been executed on the effective date specified therein. The amounts remitted to the Public Employees' Retirement Board pursuant to this subsection hereby are appropriated for the purposes of ORS 239.730 to 239.755. The amounts so remitted shall be deposited, all claims against the same shall be certified and audited and disbursements therefrom shall be made as specified in ORS 237.490. The moneys remitted and deposited pursuant to this subsection shall be disbursed for the purpose of paying the amounts required to be paid to the Secretary of the Treasury of the United States pursuant to an agreement entered into under ORS 239.730 to 239.755 with respect to the period from the effective date of the agreement as specified therein to the date of the execution of the agreement.

(5) The board of directors of the school district shall levy and collect a tax in sufficient amount in the aggregate to pay expenses of the district authorized by ORS 239.730 to 239.755.

(6) The agreement authorized by ORS 239.730 to 239.755 shall be subject to all of

the provisions of ORS 237.410 to 237.520, to the extent that the provisions of such sections are applicable to the agreement. [1955 c.733 §7]

**239.760 to 239.980** [Reserved for expansion]

### PENALTIES

**239.990 Penalties.** Violation of the provisions of this chapter for which a specific penalty is not provided is a misdemeanor.

### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law. Done at Salem, Oregon,  
on October 15, 1955.

Sam R. Haley  
Legislative Counsel

