

Chapter 237

1961 REPLACEMENT PART

Public Employes' Retirement Generally

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PUBLIC EMPLOYEES' RETIREMENT SYSTEM

237.001 Short title. ORS 237.001 to 237.315 shall be known as the Public Employees' Retirement Act of 1953.
[1953 c.200 §1]

237.002 [Repealed by 1953 c.180 §18]

237.003 Definitions for ORS 237.001 to 237.315. As used in ORS 237.001 to 237.315:

(1) The term "annuity" means payments for life derived from contributions made by a member as provided in ORS 237.001 to 237.315.

(2) The term "calendar year" means 12 calendar months commencing on the first day of January and ending on the thirty-first day of December following.

(3) The term "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) Members who as of July 1, 1946, had reached the age of 75 years.

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

(c) An employe who was in the armed services on January 1, 1945, and returned to his 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.

(4) The term "employe" includes, in addition to employes, 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.

(5) The term "fiscal year" means 12 calendar months commencing on the first day of July and ending on the thirtieth day of June following.

(6) The term "pension" means annual payments for life derived from contributions by one or more public employers.

(7) The term "public employer" means

the state, one of its agencies, or one of its political subdivisions.

(8) The term "salary" means the remuneration paid an employe in cash out of the funds of a public employer in return for his 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 him in return for his services.

(9) The term "volunteer fire-fighter" means a fire-fighter whose position normally requires less than 600 hours of service per year.

(10) The term "school year" means the period beginning July 1 and ending June 30 next following.

(11) The term "academic year" means the period between July 1 and June 30 next following during which school is normally in session in the district concerned.

(12) The term "police officer" includes:

(a) Employes of the Oregon State Penitentiary and of the Oregon State Correctional Institution whose duties, as assigned by the warden or superintendent, include the custody of persons committed to the custody of or transferred to the penitentiary or correctional institution.

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

(c) Employes of the Oregon Liquor Control Commission who are classified as enforcement officers by the administrator of the commission.

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

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

(f) Parole and probation officers employed by the State Board of Parole and Probation.

(g) Employes of the Secretary of State who are classified as Capitol Building Police Officers by the Secretary of State.

[1953 c.200 §2; 1955 c.131 §3; 1957 c.630 §5; 1959 c.333 §1; 1961 c.430 §1]

237.004 [Repealed by 1953 c.180 §18]

237.005 Public Employees' Retirement System. A system of retirement and of benefits at retirement or death for employes of public employers hereby is established and shall be known as the Public Employees'

Retirement System. Any similar system being operated by a public employer on April 8, 1953, may be integrated into this system as hereinafter provided.

[1953 c.200 §3]

237.006 [Repealed by 1953 c.180 §18]

237.008 [Repealed by 1953 c.180 §18]

237.010 [Repealed by 1953 c.180 §18]

237.011 Membership generally. No person may become a member of the system unless he is in the service of a public employer and has completed six months' service uninterrupted by a total of more than 30 working days during the six months' period. Every employe of a participating employer shall become a member of the system at the beginning of his first full pay period following the six months' period. All public employers participating in the Public Employes' Retirement System established by chapter 401, Oregon Laws 1945, as amended, at the time of repeal of that chapter, and all school districts of the state, shall participate in, and their employes shall be members of, the system, except as follows:

(1) An employe who is a member of, or eligible for membership in, a retirement system established by a public employer prior to April 8, 1953, or who is a member of, or eligible to membership in, an association established pursuant to ORS chapter 239, may not become a member of the system established by this chapter until the previously established system or the system of the association is integrated with the system established by this chapter pursuant to the procedure provided by ORS 237.051. As a member of the system established by this chapter he shall receive no credit for service during such time as he heretofore excluded or hereafter excludes himself from the previously established system or from the association, and shall receive only such credit for service during the time he is a member of the previously established system or of the association as the contract of integration provides, except that any teacher who has been continuously employed by a school district of this state from July 1, 1929, to July 1, 1951, in which an association has been established pursuant to ORS chapter 239, and who has not been a member of such association at any time from July 1, 1929, to September 1, 1953, shall receive credit for prior service as provided by ORS 237.081 upon payment prior to December 1, 1953, to the board by such teacher of such contributions as would have been deducted from his

salary from July 1, 1946, to the date of becoming a member of this system if he had become a member of this system on July 1, 1946, and the school district by which said teacher is employed shall transmit to the board, at such time as the board designates, such sums as the school district would have been required to transmit under the provisions of ORS 237.081 if such teacher had become a member of this system on July 1, 1946, and, upon such payments, such teacher shall be deemed to have been a member of the system established by this chapter for the purposes of ORS 237.001 to 237.315 continuously from July 1, 1946.

(2) Any member of the Public Employes' Retirement System who, through the annexation of a political subdivision employing him or by change of employment, becomes the employe of another political subdivision which is participating in the Public Employes' Retirement System and has also a separate retirement system for its employes, shall remain a member of the Public Employes' Retirement System unless, within 60 days after the effective date of the annexation or change of employment or April 8, 1953, he shall by written notice to the Public Employes' Retirement Board and to the administrative body of his new public employer elect to relinquish membership in the Public Employes' Retirement System and become a member of the separate retirement system of his employer, if eligible for membership in that retirement system, and he shall be so carried by his new employer. Immediately upon such annexation of any political subdivision or such change of employment, the new public employer shall inform such employe in writing of his right to exercise an election as in this section provided.

(3) A political subdivision (other than a school district) not participating in the retirement system established by chapter 401, Oregon Laws 1945, as amended, which employs five employes or more, each of whose position requires 600 hours of service per year, may, through its governing body, notify the board in writing, that it elects to include its employes in the system hereby established. Such public employer may request the board to make a study and estimate of the cost of including it and its eligible employes, other than volunteer fire-fighters, in the system, which the board thereupon shall cause to be made and the cost of which the employer shall bear. Upon completion of the study and estimate the employer may apply

for admission to the system, whereupon it shall begin to participate therein and its eligible employes other than volunteer fire-fighters shall become members of the system.

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

(5) No inmate of a state institution and no person enrolled full time in a state institution principally for purposes of training, even though he received compensation for services performed for the institution, may become a member of the system.

(6) If he has not reached the age of 65 years, a person holding an elective office or an appointive office with a fixed term or an office as head of a department to which he is appointed by the Governor may become a member of the system by giving the board written notice of his desire to do so within 30 days after he takes the office or, in the event that he is not eligible to become a member of the system at the time he takes the office, within 30 days after he becomes so eligible. Membership so established shall not be discontinued during the appointive or elective term of the officer except upon his separation from service.

(7) A public employer employing volunteer fire-fighters may apply to the board at any time for them to become members of the system. Upon receiving the application the board shall fix a wage at which, for purposes of ORS 237.001 to 237.315 only, they shall be considered to be employed and which shall be the basis for computing the amounts of the contributions which they pay into, and of the benefits which they and their beneficiaries receive from, the fund; and if the wage so fixed is satisfactory to the employer, shall include the fire-fighters in the system.

(8) (a) In the event that an employe enters the service of a public employer which is participating in or later begins to participate in the system and in the event that at the time he enters that service or at the time that the employer begins to participate in the system he has commenced to purchase and is continuing to purchase a retirement annuity, if the employer deems the annuity adequate for the purposes of ORS 237.001 to 237.315 it may enter into an agreement with him and the board pursuant to which he may be

exempted from contributing to the Public Employes' Retirement Fund, and, if no public funds are being used to purchase the annuity or a corresponding pension, the employer, in lieu of the contributions which it otherwise would make to the fund on his account, may make contributions toward the cost of purchasing the annuity. Such employe otherwise shall be subject to the provisions of ORS 237.001 to 237.315, except that neither he nor any person claiming under him shall receive any payments from the retirement fund as service or disability allowance.

(b) An employe who enters into an agreement under paragraph (a) of this subsection may elect at any time thereafter to start to participate in the system by giving written notice of his desire to participate to the board and to his employer. The employe shall receive no credit in the system for any service rendered to his employer during the period during which he was exempted from contributing to the fund under the agreement, but the employe shall be considered to have completed the six months' service required for membership in the system. When the employe starts to participate in the system his employer shall start to contribute to the fund on his account in the same manner as the employer contributes on the account of other employes who are members of the system and his employer shall stop making contributions toward the cost of purchasing the retirement annuity.

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

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

(c) Any person who is a member of the

Public Employees' Retirement System, who, on or after July 1, 1955, is employed by the Federal Cooperative Extension Service or by any other service in which participation in the Federal Civil Service retirement program is mandatory, and who is given a federal appointment, shall continue such membership in the Public Employees' Retirement System unless, within six months after the effective date of the appointment, he gives written notice to the Public Employees' Retirement Board of his desire to cancel his membership.

(d) A cancelation of membership under paragraph (b) or (c) of this subsection terminates membership in the Public Employees' Retirement System and cancels the right to any benefits from, or claims against, that system. Such cancelation prevents the withdrawing member from claiming thereafter any credit for any service performed before the cancelation. Upon receipt of a notice of cancelation, the Public Employees' Retirement Board shall refund to the withdrawing member, regardless of his age, his account balance in the retirement fund.

[1953 c.200 §8; 1955 c.131 §4; 1961 c.331 §1]

237.012 [Repealed by 1953 c.180 §18]

237.013 Membership of certain district judges. Each district court judge who is a member of the Public Employees' Retirement System shall continue to be a member of the system, and, if he has not reached the age of 65 years, each district court judge who is not a member of the system shall, without giving notice of his desire to do so under subsection (6) of ORS 237.011, become a member of the system. Except as otherwise provided in this section, such district court judges shall be governed by the provisions of ORS 237.001 to 237.315 applicable to other persons holding elective offices who may become members of the system.

[1959 c.559 §8]

237.014 [Repealed by 1953 c.180 §18]

237.016 [Repealed by 1953 c.180 §18]

237.018 [Repealed by 1953 c.180 §18]

237.020 [Repealed by 1953 c.180 §18]

237.022 [Repealed by 1953 c.180 §18]

237.024 [Repealed by 1953 c.180 §18]

237.025 Membership of deputy district attorneys. Any deputy district attorney receiving any part of his compensation from the state or from a county participating in the Public Employees' Retirement System

shall establish membership in the system after service for six months without having been absent 30 working days. Contributions by any such deputy district attorney shall be due from salary paid him by the state, by a county participating in the system or by both. The application of ORS 237.001 to 237.315 to any such deputy district attorney made prior to the effective date of this section by the Public Employees' Retirement Board hereby is confirmed and ratified.

[1957 c.630 §2]

237.026 [Repealed by 1953 c.180 §18]

237.028 [Repealed by 1953 c.180 §18]

237.030 [Repealed by 1953 c.180 §18]

237.032 [Repealed by 1953 c.180 §18]

237.033 Membership of Oregon National Guard employees. Notwithstanding any other provision of ORS 237.001 to 237.315:

(1) All employees of the Oregon National Guard who are employed under section 709 of title 32, United States Code, and who receive compensation for such employment from federal appropriated funds shall establish membership in the system after completion of six months' service uninterrupted by a total of more than 30 working days during the six months' period. The provisions of ORS 237.001 to 237.315 relating to police officers and firemen are applicable with respect to such employees, except that subsection (12) of ORS 237.071 is not applicable to such employees.

(2) Employee contributions for each employee referred to in subsection (1) of this section shall be deducted from his compensation referred to in subsection (1) of this section, transmitted to the board and credited to his account in the fund.

(3) Employer current service contributions with respect to employees referred to in subsection (1) of this section shall be transmitted to the board by the Federal Government; but if federal appropriated funds are not available for such purpose, employer current service contributions with respect to such employees may be transmitted to the board by the Oregon National Guard if funds are available for the purpose. If no employer current service contributions are transmitted to the board under this subsection because funds are not available for the purpose, benefits based upon employer current service contributions to which employees referred to in subsection (1) of this section would otherwise be entitled shall be reduced accordingly.

(4) No employer prior service contribu-

tions shall be made with respect to employes referred to in subsection (1) of this section. No employe establishing membership in the system under subsection (1) of this section is entitled to prior service credit or prior service benefits under ORS 237.001 to 237.315.

(5) The Oregon National Guard shall furnish all reports required by the board, comply with all instructions, rules and regulations of the board and otherwise comply with the provisions of ORS 237.001 to 237.315 applicable to public employers who are members of the system, except with respect to the transmission to the board of deducted employe contributions by the Federal Government under subsection (2) of this section and employer current service contributions by the Federal Government under subsection (3) of this section.

[1961 c.189 §2]

Note: Section 4 of chapter 189, Oregon Laws 1961, has not been compiled because it is temporary, but it is printed below for the convenience of the user:

Sec. 4. For the purpose of establishing membership in the Public Employes' Retirement System under subsection (1) of section 2 of this Act (ORS 237.033), service by employes referred to in subsection (1) of section 2 of this Act [ORS 237.033] immediately before the effective date of this Act [July 1, 1961] shall be included in computing service for six months without having been absent 30 working days.

237.034 [Repealed by 1953 c.180 §18]

237.035 Agreements with Federal Government to implement ORS 237.033. The board may enter into agreements or modifications of agreements with any authorized agency of the Federal Government with respect to the transmission to the board of deducted employe contributions by the Federal Government under subsection (2) of ORS 237.033 and employer current service contributions by the Federal Government under subsection (3) of ORS 237.033. The agreement or modifications:

(1) Shall provide for transmission of contributions substantially the same as transmission by public employers who are members of the system.

(2) May be made contingent upon the availability of federal appropriated funds for employer current service contributions.

(3) May authorize the Federal Government to audit the accounts and financial affairs of the system and require the board

to make its records available for the purpose and cooperate in such audits.

(4) May be made subject to any rules and regulations made by any authorized agency of the United States under section 709 of title 32, United States Code, or the Act of June 15, 1956, ch. 390 (5 U. S. C. 84d), and any amendments of such statutes before or after the effective date of the agreement.

(5) Shall not affect agreements entered into with respect to coverage of employes referred to in subsection (1) of ORS 237.033, under section 218, as amended, of the Social Security Act (42 U. S. C. 418).

[1961 c.189 §3]

237.036 [Repealed by 1953 c.180 §18]

237.038 [Repealed by 1953 c.180 §18]

237.040 [Repealed by 1953 c.180 §18]

237.041 Membership of school superintendents and supervisors. (1) A certificated school teacher who is elected or appointed to the office of county school superintendent, or appointed as assistant county school superintendent or employed as a county supervisor, and holding such office or employment in a county which is not participating in the Public Employes' Retirement System established by this chapter, and who otherwise would be eligible for membership in the system, may continue his membership in the system by giving written notification to the board and to the county disbursing officer who draws his salary warrants.

(2) Notice shall be delivered to the board and to the county disbursing officer within 30 days after the certificated teacher takes office as county school superintendent or assistant county school superintendent or enters upon employment as a county school supervisor.

(3) The disbursing officer shall remit to the board, employe's contributions withheld from such certificated teacher's salary in conformance with the rate of employe contribution applicable to such certificated teacher as provided by ORS 237.001 to 237.315.

(4) The employer contributions required to match the employe contributions of such certificated school teacher shall be paid from the county school fund of the county and be remitted to the board in amount and manner conforming with law and the rules of the board.

(5) Prior service credit of county school

superintendents, county supervisors and assistant county supervisors shall be computed on the same basis and be subject to the same limitations as that of other eligible certificated school teachers.

[Formerly 237.056]

237.042 [Repealed by 1953 c.180 §18]

237.044 [Repealed by 1953 c.180 §18]

237.046 [Repealed by 1953 c.180 §18]

237.048 [Repealed by 1953 c.180 §18]

237.050 [Repealed by 1953 c.180 §18]

237.051 Integration of other retirement systems. (1) Employees, other than certificated teachers employed by a school district in which an association has been organized pursuant to ORS chapter 239, whose membership in a previously established retirement system excludes them from membership in the system established by this chapter may apply to the board in writing for the former system to be integrated into the latter and for them to be allowed to become members of the latter. Whenever two-thirds of them and their employer, through its governing body, so apply, the board:

(a) May cause a financial and actuarial investigation of the proposed integration to be made, the cost of which shall be borne by the previously established system; and

(b) May upon such terms as are set forth in a contract between the board and the employer, integrate the previously established system into the system established by this chapter. The contract shall have no effect, however, until notice and hearing regarding it are afforded in the manner prescribed by ORS 237.263 for rules promulgated by the board.

(2) Nothing in ORS 237.001 to 237.315 nor any action taken pursuant thereto shall reduce or impair the benefits which employees who are receiving benefits from a retirement system integrated with the system provided by this chapter would have received had the integration not been effected.

(3) A retirement plan which has been adopted by an association organized pursuant to the provisions of ORS chapter 239, prior to April 8, 1953, and which exists on April 8, 1953, may be integrated into the retirement system established by this chapter in the manner hereinafter prescribed and not otherwise:

(a) A proposed form of contract setting forth all the terms, conditions and provisions of the integration shall be prepared by, and

adopted by a majority vote of, the board of trustees of the association and approved by the board of directors of the school district in which the association is organized.

(b) The proposed contract so adopted and approved shall be submitted to a vote of the active members of the association. In submitting a proposed contract as aforesaid, an association shall follow the procedure provided in its bylaws for the promulgation and adoption of bylaws.

(c) Adoption by the membership of an association of a proposed contract of integration shall be by an affirmative vote of not less than two-thirds of the active members of the association at the time of the election.

(d) The proposed contract so formulated, approved and adopted shall be submitted to the retirement board created by ORS 237.251 for acceptance or rejection. In the event that the proposed contract is accepted by the board created hereunder, then the integration shall proceed in accordance with the provisions of the contract.

(e) No contract of integration created as aforesaid shall in any way alter, impair or adversely affect any rights, benefits or privileges which have vested under the provisions of law in a member of an association by virtue of retirement, either on account of disability or on account of having attained the retirement age, prior to the effective date of the contract of integration created as aforesaid.

(f) A contract of integration formulated, approved and adopted as aforesaid shall contain provisions whereby there will be provided to each active member of the association who becomes a member of the retirement system created by this chapter pursuant to a contract of integration, retirement benefits, in addition to the retirement benefits accruing for subsequent service under the Public Employees' Retirement Act of 1953, determined in compliance with sound actuarial practice and with the findings of an accredited actuary on the basis of the reserves of said members at the time of the integration.

(g) A contract of integration as aforesaid shall likewise provide that any active member of an association which integrates with the retirement system herein created may elect at the time of the integration as to whether the member shall obtain a refund of the amount standing to the credit of the member on the books of the association at

the time of the integration. In the event that a member so elects, then the amount standing to the credit of the member shall be refunded and the additional benefits hereinbefore provided for shall not be available to the member to whom the refund is made. [1953 c.200 §9]

237.052 [Repealed by 1953 c.180 §18]

237.054 [Repealed by 1953 c.180 §18]

237.056 [Amended by 1953 c.522 §3; renumbered 237.041]

237.058 [Repealed by 1953 c.180 §18]

237.061 [1953 c.200 §8; repealed by 1955 c.131 §21]

237.062 [Repealed by 1953 c.180 §18]

237.064 [Repealed by 1953 c.180 §18]

237.065 Account balance accumulated under another public employees' retirement system may be deposited to employee's account. Whenever an employe of a public employer participating in the Public Employees' Retirement System establishes membership in the Public Employees' Retirement System he may, within six months after so establishing membership or within six months after June 12, 1957, deposit in a lump sum to his account under the Public Employees' Retirement System the account balance accumulated to his credit as a member of another public employees' retirement system, either within or without this state. Such lump sum deposit shall earn interest in the same manner as a contribution and shall be subject to all the provisions of ORS 237.001 to 237.315 relating to employes' contributions to the Public Employees' Retirement Fund, except that no part of such lump sum deposit or interest thereon shall be matched by a public employer participating in the Public Employees' Retirement System.

[1957 c.630 §4]

237.066 [Repealed by 1953 c.180 §18]

237.068 [Repealed by 1953 c.180 §18]

237.070 [Repealed by 1953 c.180 §18]

237.071 Objective of system regarding amount of service or disability retirement allowance; rate of contribution of employe.

(1) The objective of the Public Employees' Retirement Act of 1953 with reference to service after July 1, 1946, shall be to provide each employe, other than a police officer or fireman, who is a member of the system and who is ineligible for participation in the Old Age and Survivors Insurance program, a disability retirement allowance of the amount hereinafter provided for and a total

service retirement allowance at age 65 of approximately one-half his average salary earned while a member of the system for employes with 30 or more years of membership in the system. For any employe ineligible for Old Age and Survivors Insurance coverage entering the system after the age of 35 years, the objective shall be to provide an allowance for service after July 1, 1946, proportionately reduced on the basis of his age at the time he first becomes a member of the system. For the purposes of this subsection no employe's compensation shall be deemed to exceed the first \$3,000 earned by him during the calendar year.

(2) The objective of the Public Employees' Retirement Act of 1953 with reference to service after January 1, 1956, shall be to provide each employe, other than a police officer or fireman, who is a member of the system and who is eligible to participate in the Old Age and Survivors Insurance program and who contributes the maximum amount permitted by this law, a disability retirement allowance of the amount hereinafter provided for and a total service retirement allowance at age 65 which, together with the Old Age and Survivors Insurance primary benefit, will equal from 50 to 60 percent of his average salary earned while a member of the system for employes with 30 or more years of membership in the system. For any such employe entering the system after the age of 35 years, the objective shall be to provide an allowance for service after January 1, 1956, proportionately reduced on the basis of his age at the time he first becomes a member of the system. Contributions shall be withheld from one-half of the first \$4,800 per calendar year of each employe's compensation. A member whose salary exceeds \$4,800 per year may elect to contribute on all salary in excess of \$4,800 at the same percentage rate as are his other retirement contributions computed. Such contributions will purchase at retirement, additional benefits which will be matched by the employer. Such election must be filed in writing with the employer and with the Public Employees' Retirement Board at least 30 days prior to the date in the calendar year of election on which the employe's gross earnings as a member of the system have totaled \$4,800. The election to contribute on full salary in excess of \$4,800 may only be canceled by the employe's filing written notice of cancellation with his employer and with the

Retirement Board within the first 60 days of a calendar year.

(3) The objective of the Public Employes' Retirement Act of 1953 with reference to service after July 1, 1946, shall be to provide each police officer or fireman who is a member of the system and who is ineligible for participation in the Old Age and Survivors Insurance program, a disability retirement allowance of the amount hereinafter provided for and a total service retirement allowance at age 60 of approximately one-half of his average salary earned while a member of the system for police officers or firemen with 25 or more years of membership in the system. For any police officer or fireman ineligible for Old Age and Survivors Insurance coverage entering the system after the age of 35 years, the objective shall be to provide an allowance for service after July 1, 1946, proportionately reduced on the basis of his age at the time he first becomes a member of the system. For the purposes of this subsection, no employe's compensation shall be deemed to exceed the first \$3,000 earned by him during a calendar year.

(4) In order to achieve the objective set forth in subsection (3) of this section, a police officer or fireman employed by the state or by any school district in this state shall contribute to the fund at the same rate as does a miscellaneous employe entering the system at the same age. The employer shall make the additional contribution required to achieve the objective set forth in subsection (3) of this section. Any political subdivision of this state, other than a school district, may elect to adopt this subsection for the police and firemen in its employ who are members of the system.

(5) The objective of the Public Employes' Retirement Act of 1953 with reference to service after January 1, 1956, shall be to provide each police officer or fireman who is a member of the system and who is eligible for participation in the Old Age and Survivors Insurance program and who contributes the maximum amount permitted by this law, a disability retirement allowance of the amount hereinafter provided for and a total service retirement allowance at age 65 which, together with the Old Age and Survivors Insurance primary benefit, will equal from 50 to 60 percent of his average salary earned while a member of the system, for police officers or firemen with 25 or more years of membership in the sys-

tem. It is recognized that during the period between retirement at age 60 or thereafter and age 65, this objective will not be achieved under the provisions of this subsection. For any such police officer or fireman entering the system after the age of 35 years, the objective shall be to provide an allowance for service after January 1, 1956, proportionately reduced on the basis of his age at the time he first becomes a member of the system. Contributions shall be withheld from one-half of the first \$4,800 per calendar year of each police officer's or fireman's compensation. A member whose salary exceeds \$4,800 per year may elect to contribute on all salary in excess of \$4,800 at the same percentage rate as are his other retirement contributions computed. Such contributions will purchase at retirement, additional benefits which will be matched by the employer. Such election must be filed in writing with the employer and with the Public Employes' Retirement Board at least 30 days prior to the date in the calendar year of election on which the employe's gross earnings as a member of the system have totaled \$4,800. The election to contribute on full salary in excess of \$4,800 may only be canceled by the employe's filing written notice of cancellation with his employer and with the Retirement Board within the first 60 days of a calendar year.

(6) In order to achieve the objective set forth in subsection (5) of this section, a police officer or fireman employed by the state or by any school district in this state shall contribute to the fund at the same rate as does a miscellaneous employe entering the system at the same age. The employer shall make the additional contribution required to achieve the objective set forth in subsection (5) of this section. Any political subdivision of this state, other than a school district, may elect to adopt this subsection for the police and firemen in its employ who are members of the system.

(7) Those employes who are qualified to contribute under the provisions of subsection (1), (2), (3), (4), (5) or (6) of this section and who had established an account with the system prior to January 1, 1956, shall also receive benefits from their contributions and the contributions of their employer made before January 1, 1956, as provided by the law in effect at the time they made such contributions.

(8) An employe who is concurrently employed by more than one participating public employer, and who is a member of or entitled to membership in the system, shall make contributions to the retirement fund on the basis of salary paid by each employer as though he is not paid by any other employer, except that his election made with any one employer to contribute at the reduced rate rather than at the fixed rate shall be effective in all concurrent employment. Such employe whose salary exceeds \$4,800 per year with each of one or more employers may elect whether or not to contribute on all salary over \$4,800 in such employment. In each instance the election as to the amount of salary subject to contribution shall be dependent upon the salary earned in one employment, but shall be consistent in all employment wherein the salary exceeds \$4,800 per year.

(9) Upon the basis of the objectives set forth in this section and of actuarial tables approved by the board the actuary shall ascertain for each new member of the system the percentage of his compensation earned before his compulsory service retirement age which with interest is necessary to provide approximately one-half of the benefits the Public Employes' Retirement Act of 1953 intends for him to receive on account of service as a member of the system. From each payroll during the period his employer shall deduct that percentage of half the amount credited to an employe on the payroll up to \$4,800 and from those so electing under the provisions of subsection (2), (5) or (8) of this section, of full salary in excess of \$4,800, and shall transmit the deduction to the board, which shall cause it to be credited to his account in the fund. An employe whose rate of contribution to the fund is fixed at more than five percent of his salary may elect to reduce his contribution rate to five percent by notifying the board to that effect, in which event his benefits shall be reduced accordingly; provided, that a member who has elected to reduce his contribution to five percent may increase his contribution to the fixed rate, subject to the approval of the board and in compliance with rules prescribed by it, by notifying the board in writing of his desire. After an employe has established membership in the system, any change of election from five percent to the fixed rate or from the fixed rate to five percent will not become effective until the first pay period of the

next calendar year following the date of the election.

(10) The age, sex and classification rate applicable to a person establishing membership after January 1, 1956, shall be identical with the rate applicable to a person of the same sex who had established membership prior to January 1, 1956, at the same age and in the same classification. The age, sex and classification rates in effect on January 1, 1956, shall not be changed except by statute.

(11) For the purposes of those parts of this section relating to contributions, the year shall be the calendar year commencing on the first day of January and ending on the thirty-first day of December following. Salary shall be considered earned in the month in which it is paid. The date inscribed on the paycheck or warrant shall be considered as the pay date, regardless of when the salary is actually delivered to the employe.

(12) (a) A police officer or fireman who is a member of the system may elect to make additional contributions to the fund to purchase increased benefits between the date of retirement and age 65. The rate of additional contribution shall be determined by the actuary, dependent upon the age of the police officer or fireman at the date of election, so as to provide monthly payments on the basis of \$10 per unit of benefits purchased. No police officer or fireman may elect to purchase more than five units. For each \$10 unit purchased by the police officer or fireman, the employer shall purchase an equal \$10 unit. If a police officer or fireman is retained until age 65, he shall receive a lump sum refund of the additional contributions made toward units purchased, plus interest thereon, but shall receive no benefits from the additional contributions by the employer for such units. If a police officer or fireman retires after age 60 but prior to age 65, his units purchased by additional contributions shall provide increased monthly benefits based on life expectancy, but the matching units purchased by the employer shall not, regardless of age, exceed \$10 per month per unit purchased by the police officer or fireman. If a police officer or fireman is absent from the employment of a participating employer for any reason and because of such absence is unable to make monthly additional contributions, the benefits provided under this subsection shall be actuarially reduced upon

the retirement of the police officer or fireman.

(b) Any political subdivision of this state, other than a school district, may elect to adopt paragraph (a) of this subsection for the police officers and firemen in its employ who are members of the system.

(c) Any police officer or fireman who elects to make additional contributions to purchase increased benefits may elect at any time before termination to cancel such election, and upon such cancellation shall withdraw all additional contributions made. Having once canceled such election, no police officer or fireman shall be again permitted to make additional contributions.

(d) If a police officer or fireman who has elected to make additional contributions under this subsection transfers to employment in which he is not entitled to make such additional contributions, he may retain his account established under paragraph (a) of this subsection for five years immediately following such transfer by not requesting a withdrawal. If, at the end of the five-year period, he has not reached age 55, or has not returned to employment which entitles him to make additional contributions under this subsection, his election shall be canceled and the amount of his account established under paragraph (a) of this subsection shall be refunded to him.

(e) Any election to make additional contributions under this subsection and any cancellation of such election shall be submitted to the employer and to the board in writing.

(13) The allowance of an employe who has been granted disability benefits will be computed at the rate at which the employe was contributing at the time of his termination because of his disability, except that:

(a) An employe who has elected to raise his contribution rate from five percent to the fixed rate within 12 months immediately preceding his disability shall have his pension benefits computed on the five percent rate.

(b) An employe who has elected within the 12 months immediately preceding his disability to contribute on all salary in excess of \$4,800 per year shall have his pension benefits computed as though his salary did not exceed \$4,800 per year.

[1953 c.200 §13; 1955 c.131 §5; 1957 c.630 §6; 1959 c.334 §1]

237.072 [Repealed by 1953 c.180 §18]

237.074 [Repealed by 1953 c.180 §18]

237.076 [Repealed by 1953 c.180 §18]

237.078 [Repealed by 1953 c.180 §18]

237.081 Employer's contributions for current and prior service; amount of prior service credit. (1) A public employer which is a member of the system shall, at intervals designated by the board, transmit to it such amounts as are actuarially computed, on the basis of the objectives stated in ORS 237.071 and of actuarial tables approved by the board, to be necessary to match the benefits which will be provided its employes by accumulating their contributions for service after July 1, 1946, and to provide any additional reserves which in the judgment of the board, based upon the recommendations of the actuary, are necessary to adequately provide the benefits under ORS 237.001 to 237.315. For the purpose of such actuarial computation only, the school districts of the state shall be regarded as constituting one employer.

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

(3) A political subdivision which had

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

(4) Subject to the rules of the board and except as ORS 237.001 to 237.315 otherwise provide, credit shall be granted a member of the system for all continuous service which he renders to the state or to his employer prior to the time it commences to participate in the system. Within 60 days after his employer becomes a participant in the system the board shall issue the member entitled to such credit a certificate of the aggregate of such credit to which he is entitled. The certificate shall be final unless the board, for cause upon his or its own motion, modifies the certificate. The board may arrange with a political subdivision other than a school district for determining, on the basis of a formula agreed upon by the board and the governing body of the subdivision, the credit which an employe of the subdivision is to receive for service to it prior to the time that it commences to participate in the system, without limitation as to the number of years of such prior service, and any such employe may be given credit for accumulated seasonal employment for such subdivision if he has become a regular employe thereof.

(5) When such formula has been agreed upon and the amount of prior service credit

has been determined, a political subdivision which desires to increase such credit to its employes may apply to the retirement board for a revision of the formula within the limitations of ORS 237.001 to 237.315. If the board agrees to such revision, the cost incurred in reviewing the records of such employer's employes and making any actuarial computation required to effect an increase of prior service credit shall be borne by the political subdivision.

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

[1953 c.200 §14; 1955 c.131 §6; 1957 c.299 §1; 1959 c.334 §2; 1959 c.623 §3; 1961 c.331 §2]

237.082 [Repealed by 1953 c.180 §18]

237.084 [Repealed by 1953 c.180 §18]

237.085 Credit for service rendered before employer participated in system, when member's service interrupted for more than five years. A member of the system who was not granted credit for service which he rendered to the state or to his employer prior to the time it commenced to participate in the system, because the member's service had been interrupted for more than five years, shall upon retirement after December 31, 1960, be granted one year of prior service credit for each year of service rendered before his employer commenced to participate in the system for each full calendar year during which he was employed by an employer participating in the system and during which he made contribution to the system; but the total number of years of prior service credit allowed may not exceed the maximum number of years prior service credit which the employer has agreed to grant to its employes. An employe who, after establishing membership in the system, withdrew his contributions to the fund, shall not be granted the prior service credit described in this section for any year for which any part of the contributions are withdrawn, unless such with-

drawn contributions are repaid under subsection (3) of ORS 237.111.

[1961 c.342 §2]

237.086 [Repealed by 1953 c.180 §18]

237.088 [Repealed by 1953 c.180 §18]

237.090 [Repealed by 1953 c.180 §18]

237.091 Effect of service interruptions on membership. Within the limits hereinafter specified regarding absence from service, no leave of absence, sabbatical leave, illness, accident or emergency preventing or interrupting service by an employe to an employer participating in the system shall be deemed to break the continuity of the employe's membership in the system.

[1953 c.200 §16]

237.093 Credits for service in Armed Forces. (1) Any employe of an employer participating in the system who entered or reenlisted in the Armed Forces of the United States after January 1, 1940, and prior to July 1, 1947, and who, within one year after being otherwise than dishonorably discharged therefrom returned or returns to the service of the employer shall be entitled, subject to the limitations of ORS 237.001 to 237.315, to credit for all his service to the employer prior to July 1, 1946, and to credit for all his service in the Armed Forces after January 1, 1940, as though he had been an employe of the employer throughout his service in the Armed Forces after that date.

(2) Any employe of an employer participating in the system who entered or reenlisted in the Armed Forces of the United States during World War I and who, within one year after being otherwise than dishonorably discharged therefrom, returned to the service of his employer, shall be entitled, subject to the limitations of ORS 237.001 to 237.315, to credit for all his service in the Armed Forces during World War I, as though he had been an employe of the employer throughout his service in the Armed Forces.

(3) Any employe of an employer participating in the system who entered or reentered active service with the Armed Forces of the United States between June 25, 1950, and July 1, 1955, and who, within one year after being otherwise than dishonorably discharged therefrom, returned or returns to the service of the employer, may, within one year of the date of such return, pay to the retirement board in a lump sum the total amount of contributions he would have made

based on his salary rate at the time of taking military leave, as though he had remained in the employment of his employer. Any lump sum contribution so made shall be added to the employe's account in the retirement fund and in all respects shall be considered as though made by payroll deduction.

(4) This section does not apply to an employe who does not return to the service of his employer within five years after July 1, 1946, or within five years after the date he entered or reentered active service with the Armed Forces of the United States, whichever is later.

[1953 c.200 §16; 1957 c.630 §13]

237.094 [Repealed by 1953 c.180 §18]

237.096 [Repealed by 1953 c.180 §18]

237.097 Credit for service while on loan to Federal Government. Any employe of an employer participating in the system shall be credited, subject to the limitations of ORS 237.001 to 237.315, with service to the participating employer prior to July 1, 1946, and with service in any branch or department of the United States Government or with service in the Armed Forces of the United States, or both, as though he had been an employe of the participating employer throughout such period of service, if within 40 days from and after his separation from such civilian service with the United States Government, or within one year after being otherwise than dishonorably discharged from service in the Armed Forces of the United States, he returned to the service of the participating employer from which he was transferred or loaned, provided that such employe comes within either of the following descriptions:

(1) Prior to performing service with the United States Government, he was employed by the participating employer and was transferred or loaned to a branch or department of the United States Government pursuant to an agreement between such participating employer and such branch or department of the United States Government for the transfer or loan of any departmental unit of such participating employer to the Federal Government during the war emergency.

(2) Served in any branch of the Armed Forces of the United States while on military leave of absence from a position in Federal Government service as set forth in subsection (1) of this section.

[1953 c.200 §16]

237.098 [Repealed by 1953 c.180 §18]

237.101 Effect of transfer to other participating employer on accrued rights and credits. No transfer after July 1, 1946, by a member of the system from the service of one employer participating in the system to the service of another such employer shall impair any rights or deprive him of any credits accruing to him as a result of his membership in the system after July 1, 1946, and prior to the transfer.

[1953 c.200 §15]

237.102 [Repealed by 1953 c.180 §18]

237.104 [Repealed by 1953 c.180 §18]

237.105 Refund of excess contributions. Any member other than one who is receiving a retirement allowance, who has made contributions to the retirement fund in excess of the amount required to be matched by his employer or employers, may, upon application therefor to the retirement board, receive a cash refund of such net excess contributions; provided, however, that no member will be permitted to withdraw such excess contributions if he is within five years of earliest service retirement age.

[1953 c.200 §15]

237.106 [Repealed by 1953 c.180 §18]

237.107 Prior contributions and service credit not affected by change to calendar year basis. All contributions made and all service credit earned under the Public Employees' Retirement Act of 1953 prior to January 1, 1956, on the basis of a fiscal year shall not be affected by the change from fiscal year basis to calendar year basis on January 1, 1956, under the 1955 amendments of the Public Employees' Retirement Act of 1953, and such contributions and credit are recognized as if no such change had been made.

[1955 c.131 §2]

237.109 Termination of membership. An employe shall cease to be a member of the system:

(1) In the event that during any absence from such service he withdraws the amount credited to his account in the fund; or

(2) In the event that he is absent from the service of all employers participating in the system for a total of more than five consecutive years after he becomes a member of the system, except that any school district employe who completes a school year, who is then absent the next five school years but returns to school employment at the beginning of the sixth school year, or

reaches earliest service retirement age prior to the beginning of the sixth school year, is deemed to have retained membership in the system. This subsection shall be deemed to have been in effect since the inception of the system.

[1953 c.200 §15; 1955 c.131 §7; 1957 c.630 §7]

237.110 [Repealed by 1953 c.180 §18]

237.111 Separation prior to retirement; withdrawal of credits; reinstatement upon reemployment. (1) In the event that an employe who is a member of the system, who has made contributions to the fund during each of 10 calendar years as established by ORS 237.001 to 237.315, and who has not attained his earliest retirement age, is separated, for any reason other than death or disability, from all service entitling him to membership in the system, his account shall remain to his credit in the fund unless he elects to withdraw it and there shall be paid such death benefits as ORS 237.001 to 237.315 provide; or a disability retirement allowance or, after attaining his earliest retirement age, a service retirement allowance, either of which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions and interest thereon credited to him;

(b) Except as otherwise provided in subsection (4) or (6) of ORS 237.071, a pension provided by the contributions of his employers equal to the annuity provided by his accumulated contributions; and

(c) An additional life pension (nonrefund) for prior service, including military service, credited to him at the time he first becomes a member of the system, as elsewhere provided in ORS 237.001 to 237.315, which pension shall be provided by the prior service contributions of his employer or, in case he is an employe of a school district, by a uniform rate of contribution by all school districts; except that an employe who is entitled to benefits under ORS 1.310 to 1.380 shall not also be entitled to the prior service pension provided by this paragraph.

(2) In the event that an employe who is a member of the system and has not attained his earliest service retirement age, is separated, for any reason other than death or disability, from all service entitling him to membership in the system, he may withdraw from the fund the amount credited to him in his account. Such withdrawal shall cancel all membership rights in the Public Employees' Retirement System, including the right to

claim credit for any employments prior to withdrawal. If such employe has contributed to the fund in each of 10 calendar years and terminates before reaching earliest retirement age, he may, within one year of the date of termination, but in no event after reaching earliest retirement age, elect to withdraw his account balance in the fund. Failing to make such election, his contribution plus equal employer contribution shall be used to purchase a deferred monthly life annuity payable at the employe's request after he reaches earliest retirement age.

(3) Whenever, within five years after he is separated from all service entitling him to membership in the system, an employe who has withdrawn the amount credited to him reenters the service of an employer participating in the system, his rights in the system which were forfeited by the withdrawal shall be restored upon his repaying to the board within six months after reentering the service of his employer, the full amount so withdrawn.

[1953 c.200 §15; 1955 c.131 §8; 1957 c.630 §8; 1959 c.225 §1]

237.112 [Repealed by 1953 c.180 §18]

237.113 Separation to become judge, effect on membership. An employe who is a member of the system, who separates from all service entitling him to membership in the system by reason of becoming a judge subject to the provisions of ORS 1.310 to 1.380, who serves as such a judge for a period of time and who terminates service as such a judge and:

(1) Within six months after such termination, reenters the service of an employer participating in the system; or

(2) Upon such termination has reached, or within six months after such termination reaches, compulsory retirement age under the system and is not entitled, and his widow is not entitled, to benefits under ORS 1.310 to 1.380,

shall not be considered to have ceased to be a member of the system under subsection (2) of ORS 237.109 by reason of the period of time of his service as such a judge.

[1959 c.663 §2]

237.114 [Repealed by 1953 c.180 §18]

237.115 Transfer of employe's account balance to another public employes' retirement system. Whenever an employe who is past his earliest service retirement age separates from the service of a public employer

participating in the Public Employes' Retirement System and who thereafter, but before applying to the Public Employes' Retirement Board for retirement benefits, is employed in a position which entitles him to membership in another public employes' retirement system, either within or without this state, the board, upon the written request of the employe and if in conformance with the provisions of law governing the other public employes' retirement system, may transfer the account balance of the employe under the Public Employes' Retirement System to the other public employes' retirement system. Such transfer shall cancel the right of the employe to claim any future benefits under the Public Employes' Retirement System for service rendered to a public employer in this state prior to the date of the transfer.

[1957 c.630 §3]

237.116 [Repealed by 1953 c.180 §18]

237.118 [Repealed by 1953 c.180 §18]

237.120 [Repealed by 1953 c.180 §18]

237.121 Voluntary retirement. A certified teacher who is a member of the system and attains the age of 50, a police officer or fireman who is a member of the system and attains the age of 55 or any other employe who is a member of the system and attains the age of 60 shall be retired upon his written application to the board on a reduced service retirement allowance which shall be the actuarial equivalent of the service retirement allowance at the compulsory retirement age provided for in ORS 237.147.

[1953 c.200 §17]

237.122 [Repealed by 1953 c.180 §18]

237.124 [Repealed by 1953 c.180 §18]

237.125 Reemployment of members who have voluntarily retired. (1) (a) Any member of the system who is retired after having reached his earliest service retirement age, but before having reached compulsory retirement age, and who has been retired for more than six consecutive calendar months, may be reemployed before reaching compulsory retirement age by any public employer even though such retired member has been receiving retirement benefits.

(b) Any person reemployed as by this subsection provided shall resume making contributions to the retirement fund at the age rate applicable to him at the time he was separated from the service, and his employer shall match such contributions, as provided

in ORS 237.081. Payments of retirement allowance received by such person during his separation from the service shall not be repaid into the retirement fund after he re-enters public employment; but the amount of such payment shall be deducted from such employe's reserve in the retirement fund and the remainder shall be credited pro rata to the funds from which it was derived.

(c) Upon reentering public employment as by this subsection provided, the former retirement of such person and any election of option for payment of retirement benefits theretofore made by him shall be canceled; and thereafter upon retiring such person may elect any option for payment of retirement benefits authorized by ORS 237.001 to 237.315. Upon such subsequent retirement any prior service pension due the employe shall be derived from the unused portion of his prior service credit reserve and shall be calculated on the basis of his then attained age or age 65, whichever is the lesser.

(2) Any member of the system who is retired after having reached his earliest service retirement age, but before having reached compulsory retirement age, and who has been retired for less than six consecutive calendar months, may be reemployed before reaching compulsory retirement age by any public employer even though such retired member has been receiving retirement benefits, only upon his immediate repayment in a lump sum of the amount of retirement benefits drawn, after which repayment his account shall be reestablished just as it was at the time of this earlier retirement.

[1953 c.200 §17; 1955 c.131 §9]

237.126 [Repealed by 1953 c.180 §18]

237.128 [Repealed by 1953 c.108 §18]

237.129 Compulsory retirement age. (1) A police officer or fireman who is a member of the system and who has attained the age of 60 years shall be retired from service and thereafter, except as ORS 237.001 to 237.315 otherwise provide, the date of his retirement shall be the first day of the calendar month next succeeding the one in which he attains that age.

(2) Any school district employe or any dean, associate dean, assistant dean, professor, assistant professor, associate professor, instructor, associate instructor, assistant instructor or associate employed by the State Board of Higher Education who is a member of the system and who has attained the age of 65 years shall be retired from service at

the end of the academic year in which he attains the age of 65 years and thereafter, except as ORS 237.001 to 237.315 otherwise provide, the date of his retirement shall be the first day of the calendar month next succeeding the last calendar month of the academic year applicable to the school in which he is employed at the time he attains such age.

(3) Except as otherwise provided in subsections (1) and (2) of this section, any employe who is a member of the system and who has attained the age of 65 years shall be retired from service and thereafter, except as ORS 237.001 to 237.315 otherwise provide, the date of his retirement shall be the first day of the calendar month next succeeding the one in which he attains that age.

[1953 c.200 §17; 1957 c.630 §9]

237.130 [Repealed by 1953 c.180 §18]

237.132 [Repealed by 1953 c.180 §18]

237.133 Employment of persons beyond compulsory retirement age. (1) A police officer or fireman who is a member of the system and reaches the age of compulsory retirement and any other employe who is a member of the system and reaches the age of compulsory retirement, including a school district employe who reaches the age of compulsory retirement after the end of an academic year and prior to the beginning of the next succeeding academic year, shall, upon his request in writing to the employer and to the Public Employees' Retirement Board, be continued in service until he reaches the age of 70 years, unless the administrative head of his employer determines, and states in a written notice to the employe, the reason that continued service after reaching the retirement age would not be in the public interest. A copy of such notice shall forthwith be transmitted to the board. No employer or administrative head thereof shall adopt or enforce any general policy that all its employes affected by this subsection shall be or shall not be continued in service or shall grant or refuse to grant the requests of its employes to be continued in service; but each employer shall make its decision upon the merits of the case of each individual employe affected. Any employe continuing in employment past compulsory retirement age as provided in this subsection may be retired at any time after reaching compulsory retirement age and prior to

reaching the age of 70 years if the administrative head of his employer determines, and states in a written notice to the employe and the board, the reason that continued service would not be in the public interest. Retirement under this subsection is not subject to appeal.

(2) Employes continuing in employment past compulsory retirement age as provided in this section shall not be permitted to make further contributions to the retirement fund, nor shall their employer make further contributions on their behalf. The account balance of any such employe shall continue to earn interest and at the time of the retirement of such employe his benefits shall be computed on his then attained age. Any such employe continuing in employment past compulsory retirement age, upon reaching compulsory retirement age or within 60 days thereafter, may elect an optional form of payment to become operative upon his retirement or upon his death, whichever occurs first. No change of an option so elected shall be permitted, nor may there be a change of beneficiary if Option 2 or 3 is elected. Upon the death of the employe before retirement or upon his retirement, benefits payable under the option elected shall be computed as though both the employe and the beneficiary were alive. If the beneficiary designated under Option 2 or 3 predeceases an employe who is a member of the system and who dies before retiring, the account balance of the employe is subject to the provisions of ORS 237.165.

(3) Notwithstanding the provisions of ORS 237.129 or subsection (1) of this section, a person may be elected or appointed to, and hold, an office for a definite term even though at the time of such election or appointment he shall have reached, or subsequent to such election or appointment reaches, the compulsory service retirement age applicable to him; and a school teacher or other instructor serving under a contract or appointment for a definite term may continue in service until the end of the academic year in which he reaches the compulsory service retirement age applicable to him, and any other employe of any school district, subject to the approval of the school board, may continue in service until the end of the academic year in which he reaches the compulsory service retirement age applicable to him. Nothing in ORS 237.001 to 237.315, however, shall be construed to prevent the board of any school district not

subject to the Teachers' Tenure Law from applying to the retirement board for permission to employ a certificated teacher who has reached retirement age, whether or not said teacher has been previously employed by said school board; nor shall ORS 237.001 to 237.315 be construed to prevent the retirement board from granting such permission if it be in the public interest so to do. In the event such permission be granted, such teacher, during the period of such employment, shall not be entitled to any pension or annuity provided by ORS 237.001 to 237.315.

(4) Except as otherwise specifically provided by ORS 237.001 to 237.315, no person who has attained compulsory retirement age can be retained by any public employer other than the one in the employment of which he attained compulsory retirement age or be employed by any participating employer in a position which normally requires 600 hours of service per calendar year.

(5) No person who is elected to a full-time salaried office of the state or one of the participating political subdivisions thereof, or who is appointed to a full-time salaried office having a term fixed by statute or charter, after he has attained compulsory retirement age and whether or not he has been retired, shall forfeit any rights accrued or accruing to him; provided, however, that for the period that such person holds such office he shall not be entitled to any pension or annuity provided by ORS 237.001 to 237.315. Upon ceasing to hold such office, his benefits shall be computed or recomputed on the basis of his age then attained.

(6) (a) Any person who has been retired by a public employer at any time between July 1, 1947, and August 1, 1953, because of having attained compulsory retirement age, shall be deemed eligible, subject to civil service rules governing public employment, for reemployment by any public employer if he requests to be continued in service as provided in subsection (1) of this section.

(b) No public employer shall be required to reemploy such person in such manner as to displace any other person.

(c) Payments of superannuation retirement allowance received by such person during his separation from the service shall not be repaid into the retirement fund after he reenters public employment; but the amount of such payments shall be deducted from such employe's reserve in the retirement

fund, and the remainder shall be credited pro rata to the funds from which it was derived.

(d) Upon reentering public employment as by this subsection provided, the former retirement of such person and any election of option for payment of retirement benefits theretofore made by him shall be canceled; and thereafter upon retiring such person may elect any option for payment of retirement benefits authorized by ORS 237.001 to 237.315.

[1953 c.200 §17; 1955 c.131 §10; 1957 c.630 §10; 1959 c.333 §3; 1961 c.331 §3]

237.134 [Repealed by 1953 c.180 §18]

237.135 Employment of domestic or custodial employe beyond compulsory retirement age. Nothing in ORS 237.001 to 237.315 shall be construed to prevent the administrative head of any political subdivision of this state, including any school district, from applying to the retirement board for permission to employ a domestic or custodial employe who has reached retirement age, whether or not the employe has been previously employed by the political subdivision; nor shall ORS 237.001 to 237.315 be construed to prevent the retirement board from granting such permission if it is in the public interest to do so. In the event such permission is granted, such employe, during the period of such employment, shall not be entitled to any pension or annuity provided by ORS 237.001 to 237.315. Any person employed under the provisions of this section shall, within 90 days after the date of such employment, furnish the retirement board with satisfactory documentary evidence establishing his date of birth. Any person employed under the provisions of this section shall be subject to the continuation in service limitation provided by subsection (1) of ORS 237.133. Permission for employment granted by the retirement board under the provisions of this section shall expire at the end of the calendar year for which such permission for employment was applied for and granted, and such permission may be extended for each subsequent calendar year only by a new application to the retirement board from the administrative head of the political subdivision and by affirmative granting of permission by the retirement board.

[1955 c.283 §2]

237.136 [Repealed by 1953 c.180 §18]

237.138 [Repealed by 1953 c.180 §18]

237.139 Employment by State Board of Higher Education of persons beyond compulsory retirement age. Nothing in ORS 237.001 to 237.315 shall be construed to prevent the State Board of Higher Education from applying to the retirement board for permission to employ a person for teaching or research purposes who has reached retirement age, whether or not such person has been previously employed by the State Board of Higher Education; nor shall ORS 237.001 to 237.315 be construed to prevent the retirement board from granting such permission if it is in the public interest to do so. In the event such permission is granted, such person, during the period of such employment, shall not be entitled to any pension or annuity provided by ORS 237.001 to 237.315.

[1957 c.366 §2]

237.140 [Repealed by 1953 c.180 §18]

237.141 [1953 c.200 §17; 1955 c.131 §11; repealed by 1959 c.400 §1 (ORS 237.143 enacted in lieu of ORS 237.141)]

237.142 [Repealed by 1953 c.180 §18]

237.143 Emergency employment of retired employes. (1) Subject to the limitation in subsection (2) of this section, any public employer may employ any person receiving a service retirement allowance, if the administrative head of such employer files with the retirement board prior to the first payment in each calendar year to such person for services performed after retirement a statement showing to the satisfaction of the retirement board that an emergency existed during the time of such employment and that such employment was in the public interest.

(2) The period or periods of employment by one or more public employers of any person receiving a service retirement allowance shall not exceed 600 hours in any calendar year.

(3) Emergency employment under subsection (1) of this section shall not affect the status of any such person as a recipient of retirement benefits under ORS 237.001 to 237.315.

[1959 c.400 §2 (enacted in lieu of ORS 237.141)]

237.144 [Repealed by 1953 c.180 §18]

237.146 [Repealed by 1953 c.180 §18]

237.147 Service retirement allowance at compulsory retirement age. Upon retiring from service on account of superannuation at compulsory retirement age a person who

is a member of the system shall receive a service retirement allowance which shall consist of:

(1) A refund annuity which shall be the actuarial equivalent of his accumulated contributions and interest thereon credited to him at the time he retires, which annuity shall provide an allowance payable during his life and at his death a lump sum equal in amount to the difference between his accumulated contributions at the time of his retirement and the sum of the annuity payments actually made to him during his life shall be paid to such person, if any, as he nominates by written designation duly acknowledged and filed with the board or shall otherwise be paid according to the provisions of ORS 237.001 to 237.315 for disposal of an amount credited to a member in his account at the time of his death in the event that he designates no beneficiary to receive the amount or that no such beneficiary is able to receive the amount; and

(2) Except as otherwise provided in subsection (4) or (6) of ORS 237.071, a life pension (nonrefund) provided by the contributions of his employers of the actuarial equivalent of the cash refund annuity provided by his accumulated contributions; and

(3) An additional life pension (nonrefund) for prior service, including military service, credited to him at the time he first becomes a member of the system, as elsewhere provided in ORS 237.001 to 237.315, which pension shall be provided by the prior service contributions of his employer or, in case he is an employe of a school district, by a uniform rate of contribution by all school districts.

[1953 c.200 §18; 1955 c.131 §12]

237.148 [Repealed by 1953 c.180 §18]

237.150 [Repealed by 1953 c.180 §18]

237.151 Option of certain separated or retired members to receive lump sum payment of benefits. (1) Any member of the system who has separated from the service of all participating employers and whose total retirement allowance at compulsory retirement age or thereafter, as computed by the retirement board in accordance with the nonrefund plan, is less than \$5 per month, shall be so notified in writing by the retirement board and within 30 days after the date of such notification may, by written notification to the retirement board, elect to receive as a cash refund in lieu of any and all retirement allowance the sum of his own net normal

contributions to the retirement fund plus an equal amount contributed by his employer or employers to such fund, plus the sum of his own excess contributions.

(2) A member of the system who has terminated after reaching earliest service retirement age but before having reached compulsory retirement age, whose total retirement allowance at compulsory retirement age, as computed by the retirement board in accordance with the nonrefund plan on the basis of that rate of interest applicable at the time of such employe's request for refund of contributions, would be less than \$5 per month, may withdraw from the fund in a lump sum his own contributions plus interest earnings thereon in lieu of any and all retirement allowance and benefits. Any such member who, as of July 1, 1953, is drawing a service retirement allowance of less than \$5 per month in accordance with the nonrefund plan, may, prior to January 1, 1954, request the retirement board for a computation of his account as of his compulsory retirement age. If his retirement allowance so computed would be less than \$5 per month on the nonrefund plan, the member may, prior to July 1, 1954, elect to receive, as a cash refund in lieu of any and all further retirement allowance and benefits, the unused portion of his own net contributions to the retirement fund.

[1953 c.200 §15]

237.152 [Repealed by 1953 c.180 §18]

237.154 [Repealed by 1953 c.180 §18]

237.155 Optional forms of service retirement allowance. (1) At any time after establishing membership, but before the first payment on account of his service retirement allowance becomes normally due, a person who is a member of the system may elect to convert the allowance described by ORS 237.147 as payable on his account after his retirement into a service retirement annuity of equivalent actuarial value of one of the optional forms named below. The election of Option 2 or 3 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 his accumulated contributions and interest thereon credited to him at the time he retires (if death occurs before the first payment is due, the account shall be treated as though death had occurred before retirement); (b) except as otherwise provided in subsection (4) or (6) of ORS 237.071, a life pension

(nonrefund) provided by the contributions of his employers equal to the annuity provided by his accumulated contributions; (c) an additional nonrefund pension for prior service, including military service, credited to him at the time he first becomes a member of the system, as elsewhere provided in ORS 237.001 to 237.315 which pension shall be provided by the prior service contributions of his employer or, in case he is an employe of a school district, by a uniform rate of contribution by all school districts; or

Option 2. A reduced service retirement allowance payable during his life, with the provision that it shall continue after his death for the life of the beneficiary he nominates by written designation duly acknowledged and filed with the board at the time of election, should the beneficiary survive him; or

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

(2) The beneficiary designated by a member to receive any benefit hereunder shall have such insurable interest in the life of the member as described in ORS 237.165. The designation of a beneficiary or the election of an option may be changed by the member at any time before payment of the first benefit check is normally due.

(3) The obligation for payment of any benefit in force prior to April 8, 1953, shall not hereby be altered. 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.

[1953 c.200 §19; 1955 c.131 §13]

237.156 [Repealed by 1953 c.180 §18]

237.157 Waiver of retirement allowance payments. (1) If receipt in full by a person of a retirement allowance under ORS 237.001 to 237.315 would prevent such person from receiving in full any other governmental pension to which he is entitled, such person

may waive for a calendar year sufficient monthly payments, or portions thereof, of retirement allowance under ORS 237.001 to 237.315 to permit him to receive in full the other governmental pension. The waiver shall be made in writing and filed with the Public Employees' Retirement Board not less than 15 days before the first day of the month to which the waiver applies.

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

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

[1959 c.256 §2]

237.158 [Repealed by 1953 c.180 §18]

237.160 [Repealed by 1953 c.180 §18]

237.162 [Repealed by 1953 c.180 §18]

237.164 [Repealed by 1953 c.180 §18]

237.165 Payment of credits or accrued benefits on death of member. (1) In the event that a person who is a member of the system dies before retiring, the amount of money credited at the time of his death to his account in the fund shall be paid to the beneficiaries whom he designates. For this purpose he may designate as a beneficiary any person having an insurable interest in his life or the executor or administrator of his estate or a trustee named by him to execute an express trust in regard to such amount.

(2) Should he designate no such beneficiary, it shall be paid directly without probate to the surviving next of kin of the deceased or the guardian of the survivor's estate, share and share alike, payment to be made to survivors in the following groups in the order listed:

- (a) Husband or wife, or
- (b) Children, or
- (c) Father and mother, or
- (d) Grandchildren, or
- (e) Brothers and sisters, or
- (f) Nieces and nephews.

No payment shall be made to persons included in any of these groups should there be living at the date of payment persons in any of the groups preceding it as listed. Payment to the persons in any group, upon receipt from them of an affidavit upon a form supplied by the board, that there are no living individuals in a group preceding it, that the estate of the deceased will not be probated and that said amount of money, to the full extent thereof if necessary, will be used to pay the expenses of last illness and funeral of the decedent, shall completely discharge the board and system on account of the death.

(3) Accrued benefits due a retired member at the time of his death are payable to his administrator or executor; if his estate will not be probated they may be paid to his designated beneficiary or next of kin in the order herein stated, upon receipt by the board of the affidavit.

(4) Nothing in ORS 237.001 to 237.315 shall be construed to prevent the Public Employees' Retirement Board from crediting interest earnings to the account of a deceased member whose beneficiary is a minor, until such time as the beneficiary attains majority, or until a legal guardian for him has been named, whichever is sooner.

[1953 c.200 §20]

237.166 [Repealed by 1953 c.180 §18]

237.167 Payment upon death of retired member who dies before making election of retirement benefits. If a person who is a member of the system, who has attained compulsory retirement age and who has retired from service, dies without making an election under ORS 237.155 and prior to the expiration of the time within which such an election could be made by him, and the records of the Public Employees' Retirement Board indicate that he has designated his surviving spouse as his beneficiary under subsection (1) of ORS 237.165, such surviving spouse may, not more than 60 days after the date of the death of such deceased member, elect to receive the amount referred to in subsection (1) of ORS 237.165, or elect Option 2 or Option 3 under ORS 237.155 and designate himself as the beneficiary thereunder with the same force and effect as if the election and designation had been properly made by the deceased member.

[1957 c.367 §2]

237.168 [Repealed by 1953 c.180 §18]

237.169 Additional death benefit. (1) In addition to any other benefits under ORS

237.001 to 237.315, a death benefit, provided by current service contributions of the public employer under ORS 237.081, shall be paid to the beneficiaries referred to in subsection (2) of this section, if any, of a person who is a member of the system and who is employed in the service of a public employer which is a member of the system on the date of his death, if such person:

(a) Has made contributions to the fund for at least five years immediately preceding his death; or

(b) Is killed in line of duty in the service of the public employer; or

(c) Dies as a result of injuries received in line of duty in the service of the public employer.

(2) The death benefit referred to in subsection (1) of this section shall be paid to the spouse of the deceased member, or, if there is no such spouse, to the children under 18 years of age of the deceased member, or, if there are no such spouse and no such children, to the dependent parents, as determined under subsection (2) or (6) of ORS 316.455, of the deceased member. If no beneficiary referred to in this subsection survives the deceased member, no such death benefit shall be paid, and no such death benefit shall be paid to any other person.

(3) The death benefit referred to in subsection (1) of this section shall be an amount equal to one-twelfth of the annual salary of the deceased member at the date of his death or injury multiplied by the number of calendar years in which he made contributions to the fund. However, in no case shall such death benefit exceed an amount equal to one-half of the annual salary of the deceased member at the date of his death or injury, or an amount equal to his accumulated contributions to the fund, plus interest earned, to the date of his death, whichever amount is the lesser. If the salary of the deceased member was paid on an hourly, daily or weekly basis, for the purposes of this subsection his annual salary shall be determined by multiplying his hourly, daily or weekly salary rate by the number of hours, days or weeks normally required in a calendar year by his employment.

(4) If the death benefit referred to in subsection (1) of this section exceeds \$1,200, it shall be paid in equal monthly instalments over a 12-month period. If such death benefit is \$1,200 or less, it shall be paid in one lump sum.

[1959 c.623 §2; 1961 c.331 §4]

237.170 [Repealed by 1953 c.180 §18]

237.171 Disability retirement allowance.

(1) Whenever an employe who is a member of the system, who has been an employe for three years or more of an employer which is participating in the system, and who is under the voluntary service retirement age, 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, by injury or disease sustained while in actual performance of duty and not intentionally self-inflicted, he shall receive a disability retirement refund annuity based on the contributions credited to his account and, except as otherwise provided in subsection (4) or (6) of ORS 237.071, a current service pension provided by the contributions of his employing agencies equal to the pension to which he would have been entitled if he had worked continuously until his earliest service retirement age as provided in ORS 237.001 to 237.315, and the same prior service pension he would have received had he worked until normal retirement age; provided, however, that payments under such disability retirement annuity and pension for the first 90-day period of such incapacity shall be withheld until such 90-day period has elapsed. As used in this subsection, "injury" means bodily injury causing the disability directly and independently of all other causes and effected solely through accidental means.

(2) Whenever an employe who is a member of the system, who has been an employe for 10 years or more of an employer which is participating in the system, and who is under the voluntary service retirement age, 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, from cause other than injury sustained while in actual performance of duty or intentionally self-inflicted, he shall receive a disability retirement refund annuity based on the contributions credited to his account and a prior service pension and, except as otherwise provided in subsection (4) or (6) of ORS 237.071, a current service pension provided by the contributions of his employing agencies equal to the pension to which he would have been entitled if he had

worked continuously until his earliest service retirement age as provided in ORS 237.001 to 237.315; provided, however, that payments under such disability retirement annuity and pension for the first 90-day period of such incapacity shall be withheld until such 90-day period has elapsed.

(3) An employe who is a member of the system, who is separated from all service entitling him to membership in the system and who has not withdrawn the amount credited to his account in the fund is not eligible for disability benefits referred to in subsection (1) or (2) of this section unless he applies for such disability benefits before attaining voluntary retirement age referred to in ORS 237.121, and within five calendar years after the date of such separation from service if his disability is continuous from such separation date or within six months after the date of such separation from service if his disability occurs after such separation date.

(4) An employe who has passed voluntary retirement age but who has not yet reached compulsory retirement age may apply for either duty, under subsection (1) of this section, or off the job, under subsection (2) of this section, disability benefits. Such employe may be found by the board to be disabled and may be granted retirement benefits equal to the voluntary retirement benefits which he would receive were he to voluntarily retire. He shall be entitled to be treated in all other respects as though retired for disability under ORS 237.171 to 237.195, but shall not be entitled to minimum benefits under ORS 237.187.

(5) In computing years of employment for the purpose of subsections (1) and (2) of this section, the following schedule shall be used: For employment before the employe established membership in the Public Employes' 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 his employer for which no prior service credit was granted. After having established membership in the Public Employes' 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 he received compensation for employment which entitled him 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 an employe 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 employe received salary or sick leave benefits from his participating employer.

[1953 c.200 §21; 1955 c.131 §14; 1959 c.334 §4]

237.172 [Amended by 1953 c.523 §6; renumbered 237.305]

237.174 [Renumbered 237.311]

237.176 [Renumbered 237.315]

237.181 Optional forms of disability retirement allowance. (1) At any time after establishing membership, but before the expiration of 90 days after the board makes its finding that he is disabled, an employe who is a member of the system may elect to convert the disability retirement allowance otherwise payable on his account into a disability retirement annuity of equivalent actuarial value, by selecting one of the optional forms named below. The election of Option 2 or 3 shall be effective immediately upon the effective date of the member's disability, and in the event of his death within the first 90-day period of incapacity, payment to his beneficiary 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 his accumulated contributions and interest thereon credited to him at the time he retires (if death occurs before the first payment is due, the account shall be treated as though death had occurred before retirement); (b) except as otherwise provided in subsection (4) or (6) of ORS 237.071, a life pension (nonrefund) provided by the contributions of his employers equal to the annuity provided by his accumulated contributions; (c) an additional nonrefund pension for prior service, including military service, credited to him at the time he first becomes a member of the system, as elsewhere provided in ORS 237.001 to 237.315, which pension shall be provided by the prior service contributions of his employer or, in case he is an employe of a school district, by a uniform rate of contribution by all school districts; or

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

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

(2) The beneficiary designated by a member to receive any benefit under this section shall have such insurable interest in the life of the member as described in ORS 237.165. The designation of a beneficiary or the election of an option may be changed by a member at any time and before the payment of the first benefit check is normally due.

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

(4) The obligation for payment of any benefit in force prior to April 8, 1953, shall 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.

(5) 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 and prior to electing a plan of benefit payments and the records of the board indicate that he had designated his surviving spouse as his beneficiary under subsection (1) of ORS 237.165, 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 237.169 if such benefit would have been available if the member had not applied for disability benefits; or

(b) If not eligible for benefits under ORS 237.169, elect to receive benefits under subsection (1) of ORS 237.165; or

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

If there is no surviving spouse to receive benefits under this subsection, benefits shall be paid to children under 18 years of age or if there are no such children, to dependent parents, as determined under subsection (2) or (6) of ORS 316.455 of the deceased member, under the provisions of ORS 237.169 if such children or parents would have qualified for benefits under the provisions of this section had the member not filed for disability benefits. If there are no children under 18 years of age nor dependent parents or if the children or dependent parents do not qualify for benefits under ORS 237.169, the account balance of the member is subject to the provisions of ORS 237.165. The obligation for payment of any benefit in force prior to January 1, 1961, shall not be altered by this subsection. However, the beneficiary of a retired member who, after August 5, 1959, and prior to February 24, 1961, died having made preliminary application for disability benefits but prior to having been found by the board to be disabled and prior to having elected a plan of benefit payment shall have the right to elect a benefit as provided in this subsection.

[1953 c.200 §21; 1955 c.131 §15; 1957 c.630 §11; 1961 c.27 §1]

237.187 Minimum disability benefits. Whenever an employe who is a member of the system has been found to be entitled to a disability retirement allowance as provided in ORS 237.171, he shall receive not less than an aggregate of \$50 a month under the non-refund plan, subject to reduction to equivalent actuarial value in the event of his exercising any option provided by ORS 237.181.

[1953 c.200 §21; 1955 c.131 §16]

237.191 Medical examinations for applicants for disability retirement allowance. The board shall require medical examinations

for all applicants for retirement for disability under such general rules as it prescribes, and may provide for the discontinuance of any disability retirement allowance and the forfeiture of all rights under ORS 237.001 to 237.315, in the case of any person who refuses to submit to such an examination.

[1953 c.200 §21]

237.195 Procedure when disabled member is capable of resuming duties. (1) When a member retired because of disability is determined by the board to be not incapacitated to the extent that he is disabled from the performance of his duty, his disability retirement shall be canceled forthwith and he shall be eligible for reemployment, his rate of contribution upon reemployment shall be determined, among other factors, by his age at the time of the reinstatement, and his individual account shall be credited with the amount which stood to his credit in his account in the fund at the time of his retirement for disability. Any such person who for any reason is not reinstated in the service of an employer participating in the system shall receive separation benefits as provided in ORS 237.001 to 237.315.

(2) When a member retired because of disability who is within five years of earliest service retirement age applies to the board for cancellation of disability benefits, the board may grant such request if:

(a) The board is satisfied, upon the report of its medical examiner, that such member is not incapacitated to the extent that he is disabled from the performance of his duty, and

(b) Such member is employed by an employer participating in the system and has demonstrated his ability to continue in such employment.

When the conditions set forth in paragraphs (a) and (b) of this subsection have been met, the account of the employe shall be credited with the amount which stood to his credit in his account at the time of his retirement for disability, and his rate of contribution upon reemployment shall be determined, among other factors, by his age at the time of reinstatement.

[1953 c.200 §21; 1957 c.630 §12]

237.201 Rights and moneys exempt from taxes, execution and bankruptcy and are unassignable. The right of a person to a pension, an annuity, or a retirement allowance, to the return of contribution, the pension, annuity, or retirement allowance itself,

any optional benefit or death benefit, or any other right accrued or accruing to any person under the provisions of ORS 237.001 to 237.315, and the money in the various funds created by ORS 237.271 and 237.281, shall be exempt from all state, county, and municipal taxes and shall not be subject to execution, garnishment, attachment or any other process or to the operation of any bankruptcy or insolvency law, and shall be unassignable.

[1953 c.200 §22]

237.202 to 237.250 [Reserved for expansion]

237.251 Public Employes' Retirement Board; creation; general powers and duties; legal advisor. (1) The governing authority of the system shall be a board of five persons appointed by the Governor and known as the Public Employes' Retirement Board. Except as otherwise provided in ORS 237.255, the term of each appointee shall be four years.

(2) The board shall have:

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

(b) The power and duty, subject to the limitations of ORS 237.001 to 237.315, of managing the system.

(3) The board:

(a) Shall, at its first meeting each year, designate one of its members to serve as chairman of the board for the remainder of the year and until his successor is designated and takes that office;

(b) Shall arrange for actuarial service for the system;

(c) Shall employ an executive secretary as hereinafter provided;

(d) Shall create such other positions as it deems necessary to sound and economical administration of the system, which positions the executive secretary shall fill by appointment; and

(e) Shall, with the approval of the Director of the Department of Finance and Administration and as otherwise provided by law, fix the salaries of all persons employed for purposes of administering the system.

(4) The Attorney General shall be the legal advisor of the board.

(5) The board established by this section shall succeed to all the duties and prerogatives of the Public Employes' Retirement Board created by chapter 401, Oregon Laws 1945, in relation to the Public Employes'

Retirement Fund, and in addition shall perform all duties required of it by ORS 237.950 to 237.980, in regard to moneys payable to or from such fund.

[1953 c.200 §§4, 10; 1955 c.131 §17]

237.255 Qualifications of board members; terms; compensation. (1) Members of the board shall be citizens of the United States and residents of the State of Oregon for at least two years immediately preceding their appointment to the board. Two members shall not be employed by a public employer during their respective terms of office on the board or have been so employed during the two years immediately preceding appointment to the board. The other three members of the board shall be employes of participating public employers and so employed throughout the respective terms of their appointment. Upon April 8, 1953, the board hereby authorized to administer ORS 237.001 to 237.315 shall be identical with the board designated in ORS 237.952, and may be composed of the members of the Public Employes' Retirement Board appointed under authority of chapter 401, Oregon Laws 1945; and they shall serve for the terms of their respective appointments previously made by the Governor, if qualified under the provisions of this section, but in any event the term of one shall expire June 30, 1953, one on June 30, 1954, one on June 30, 1955, and one on June 30, 1956, and one on June 30, 1957. Any vacancy on the board shall be filled by appointment for the unexpired term of the member replaced.

(2) The successor of a board member in either group shall have the qualifications herein prescribed for such group.

(3) A member of the board shall receive no compensation for his services as such, but shall be reimbursed from the Public Employes' Retirement Fund for expenses incidental to his rendering those services.

[1953 c.200 §§4, 5]

237.259 Executive secretary and staff. The system shall be administered, subject to the limitations of ORS 237.001 to 237.315 and the budget prescribed by the board, by the executive secretary provided for by ORS 237.251 and by a staff which the board authorizes and which the executive secretary appoints. The executive secretary shall hold that position during the discretion of the board and the members of the staff shall

hold their respective positions during the discretion of the executive secretary. No member of the staff may be removed from it, however, in a manner contrary to the laws of the state regarding civil service. The executive secretary shall furnish such bond as is required by the board.

[1953 c.200 §7]

237.263 Rules of board. Subject to the limitations of ORS 237.001 to 237.315, the board shall, from time to time, establish rules and regulations for transacting its business and administering the system. No such rule shall have effect, however, until 10 days after all the following conditions are substantially met:

(1) A copy of the rule, in the form in which the board proposes it, shall be delivered, within 30 days after the board proposes it, to the Director of the Department of Finance and Administration and to all public employers participating in the system.

(2) As soon as such an employer receives such copy, it shall immediately cause the copy to be posted on a bulletin board or in some other conspicuous place in or near its headquarters.

(3) Whenever the board deems such a proposed rule to be of such length or other nature that it cannot feasibly be publicized by such delivery and posting, in lieu thereof a summary of it shall be delivered and posted in the manner and within the time required above for copies of proposed rules.

(4) There shall likewise be posted a notice that at a specifically designated time and place at least 15 days after the date of the notice a hearing on the rule is to be held, at which all parties interested in the rule shall have an opportunity to be heard and after which the board may adopt it in the form in which it is originally proposed or with whatever amendments the board deems necessary to make in it as a result of the hearing.

(5) A copy of the rule, in the form in which the board finally promulgates it, shall be filed with the Secretary of State in accordance with the law regarding the filing of administrative orders of state agencies.

[1953 c.200 §6]

237.271 Public Employees' Retirement Fund; disbursements; annual audit. (1) The Public Employees' Retirement Fund hereby is declared to be a trust fund for the uses and purposes set forth in ORS 237.001 to 237.315

and 237.950 to 237.980, and for no other use or purpose, except that this provision shall not be deemed to amend or impair the force or effect of any law of this state specifically authorizing the investment of moneys from the fund. For all purposes the Public Employees' Retirement Board established by ORS 237.251 hereby is declared to be the trustee of the fund.

(2) All moneys paid into the fund shall be deposited with the State Treasurer, who shall be custodian of the fund and pay all warrants drawn on it in compliance with law. No such warrant shall be paid until the claim for which it is drawn is first approved by the executive secretary and otherwise audited and verified as required by law; provided, that the board may direct that the executive secretary each month prepare, certify and transmit to the Secretary of State a roll of service retirement and disability benefits, showing the names of the various beneficiaries and the amount due to each of them for the month; and the Secretary of State hereby is authorized and directed to audit such roll duly certified by the executive secretary and to draw his warrant on the State Treasurer for the aggregate amount thereof, payable to the executive secretary of the Public Employees' Retirement System, who immediately shall pay over the money thereby received to the several beneficiaries thereto entitled as certified in such roll. In the absence of the executive secretary, these duties may be performed by his assistant designated by the Public Employees' Retirement Board.

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

(4) The board shall provide for an annual audit of the retirement fund and for an annual report to the members of, and employers participating in, the system.

[1953 c.200 §10; 1955 c.131 §18; 1959 c.556 §5; 1961 c.508 §1]

237.273 Investment of Public Employees' Retirement Fund. (1) Subject to ORS 291.608, the board may invest moneys in the Public Employees' Retirement Fund in the classes of securities referred to in ORS 291.606. The board also may invest moneys in the fund in the following classes of securities:

(a) Bonds or evidences of indebtedness that are direct obligations of, or secured by the full faith and credit of, any state of the United States or the District of Columbia.

(b) Bonds or evidences of indebtedness that are direct general obligations of any county, incorporated city, incorporated school district or incorporated district in any state of the United States where there exists the power to levy taxes for the prompt payment of principal and interest on such bonds or evidences of indebtedness, provided such issuer has not defaulted in the payment of principal or interest on any of its bonds or evidences of indebtedness within 10 years prior to the time of purchase under authority of this subsection.

(c) Corporate bonds, including utility and railroad bonds, issued by an authority within or outside this state and rated at the time of purchase under authority of this subsection in one of the three highest grades by a recognized investment service organization that has been regularly engaged for a period of 10 years or more in rating or grading bonds.

(d) Real property mortgages insured or guaranteed by the Federal Government or an agency thereof.

(2) The combined amortized value of the bonds or evidences of indebtedness designated in paragraphs (a), (b) and (c) of subsection (1) of this section, in which the fund is invested, shall not exceed at any one time one-half of the amortized value of all the investments of the fund and of moneys in the fund immediately available for investment. Not more than five percent of the amortized value of all the investments of the fund and of moneys in the fund immediately available for investment may be invested in the obligations of a single, primary obligor designated in such paragraphs.

[1959 c.556 §3; 1961 c.124 §1; 1961 c.508 §2]

237.274 Legal opinions on bonds; deposit of securities; limitation on investment in state buildings and facilities; mortgage services. (1) In the purchase of bonds with which approving legal opinions ordinarily are

furnished, the board may require an original or certified copy of the written opinion of a reputable bond attorney or attorneys, or the written opinion of the Attorney General, certifying to the legality of such bonds.

(2) (a) All securities purchased by the board under ORS 237.273, 258.196, 291.607 or any other provision of law shall be placed in the hands of the State Treasurer. The State Treasurer, as the custodian of such securities, may deposit with the fiscal agency in the City and State of New York or with a bank in Portland, Oregon, with the consent of such agency or bank, such of the securities as he considers advisable, to be held in safekeeping by the agency or bank for collection of the principal thereof and the interest thereon, or of the proceeds of sale thereof.

(b) The State Treasurer shall collect the interest on and the principal of the securities in his custody under subsection (1) of this section as the obligations become due and payable, and shall pay the same, when so collected, into the Public Employees' Retirement Fund.

(c) ORS 291.618 applies with respect to securities in the custody of the State Treasurer under subsection (1) of this section.

(d) With the approval and at the request of the board, the State Treasurer shall sell or exchange securities in his custody under subsection (1) of this section.

(3) Notwithstanding any other provision of law, not more than seven percent of the amortized value of all of the investments of the fund and of the moneys in the Public Employees' Retirement Fund immediately available for investment may be invested in state buildings and facilities, and such investments shall not be made at a rate of interest that is less than the rate of interest available, as determined by the board, with respect to other authorized investments available at the time of such investments in state buildings and facilities.

(4) The board may arrange for the furnishing to the board of services with respect to mortgages in which moneys in the Public Employees' Retirement Fund are invested. Such services shall be paid for out of the gross interest of the mortgages with respect to which the services are furnished, and the net interest of such mortgages after such payment shall be considered earnings of the fund.

[1961 c.508 §§4, 5, 6, 7]

237.275 Individual accounts in fund. The board shall provide for an individual account for each member of the system. The account shall show the amount of the member's contributions to the fund and the interest which they have earned. The board shall furnish a written statement thereof upon request by any member or beneficiary of the system. [1953 c.200 §10]

237.279 Contributions and interest not to be included in department budget. Contributions required by ORS 237.001 to 237.315 to be placed in the retirement fund, and interest required to be allocated to the accounts of members of the retirement system and to participating employers, shall not be included in the biennial departmental budget of the board. [1953 c.200 §10]

237.281 Reserve accounts in fund. (1) At the close of each calendar year, the board shall set aside, out of interest and other income received through investment of the Public Employees' Retirement Fund during the calendar year, such part of said earnings as the board may deem advisable, not exceeding seven and one-half percent of the combined total of such interest and other income, which moneys so segregated shall remain in the retirement fund and constitute therein a reserve account. Such reserve account shall be maintained and used by the board to prevent any deficit of moneys available for the payment of retirement allowances, due to interest fluctuations, changes in mortality rate, loss of invested capital or other unforeseen contingency.

(2) At the close of each calendar year, the board shall set aside, out of interest and other income received during the calendar year, after deducting the amounts provided by law and to the extent that such income is available, a sufficient amount to credit two and one-fourth percent interest to the reserves for pension accounts and annuities; provided, however, that if total income available for distribution exceeds two and one-fourth percent of the total accumulated contributions of employes and employers, the reserves for pensions and annuities shall participate in such excess.

[1953 c.200 §10; 1955 c.131 §19]

237.285 Actuarial report. At least once every four years the board shall cause a competent actuary familiar with public systems of retirement and death benefits to prepare a report evaluating the current and

prospective assets and liabilities of the system and indicating its current and prospective financial condition. In preparing the report the actuary shall investigate the mortality, disability, service and other experience of the members of, and employers participating in the system, shall state fully the condition of the system, and shall make such recommendations as he deems advisable to facilitate administering it properly. The board shall publish and distribute a summary of the report to all the public employers participating in the system. The board may authorize the transfer of any portion of the funds collected under the provisions of ORS 237.081 to carry out the recommendations of the actuary.

[1953 c.200 §12; 1955 c.131 §20]

237.291 Administrative expenses of system. (1) The administrative expenses of the system shall be paid from interest earned by the retirement fund; provided, that if such interest be insufficient the expense in excess thereof shall be paid from the contributions which ORS 237.001 to 237.315 require participating employers to pay into the Public Employees' Retirement Fund.

(2) In order to facilitate financing the establishment and administration of the system the board may designate fiscal periods and may provide that extraordinary expenses incurred during one such period, such as expenses for equipment and actuarial studies, may, for purposes of equitably distributing part of the burden of the expenses, be apportioned to subsequent fiscal periods in such manner as to the board seems equitable.

(3) For each fiscal period designated by the board there shall be deducted from the interest earned by the retirement fund, the administrative expenses of the system for that period; provided, that if such interest be insufficient for such purpose, the excess expense shall be paid by deducting from the account of each employer participating in the system that fraction of the administrative expense of the system for that period which the employer's total contribution to the fund for the period is of the sum of all the employers' contributions to the fund for the period.

(4) Amounts payable as refunds and retirement allowances shall not for any purpose be deemed expenses of the board and shall not be included in its biennial departmental budget.

[1953 c.200 §11]

237.300 Applicability of ORS 237.301 to 237.315 to enforce ORS 237.001 to 237.291. All provisions of ORS 237.301 to 237.315 hereby are made applicable for enforcement of the requirements of ORS 237.001 to 237.291.

[1953 c.523 §1]

237.301 State departments to remit contributions and furnish reports; proceedings on default. (1) All state officers and departments (including commissions, boards and agencies) shall promptly and regularly remit to the Public Employees' Retirement Board all contributions required of them by law and furnish all reports required by rules of the board.

(2) If any such officer or department shall fail or refuse to remit any contribution required by law, the Public Employees' Retirement Board, within 30 days after the date the request therefor has been made by it by registered mail, may certify to the Director of the Department of Finance and Administration and to the Secretary of State the fact of such failure or refusal and the amount of the delinquent contribution or contributions, together with its request that such amount be set over from funds of the delinquent officer or department, to the credit of the Public Employees' Retirement Fund. A copy of such certification and request shall be furnished the delinquent officer or agency.

(3) The Director of the Department of Finance and Administration shall, within 10 days after receipt of request, then approve the payment of such amount by the delinquent officer or department from funds allocated to him or it for the current biennium and certify such approval to the Secretary of State, who shall draw his warrant for payment of the amount of contributions due out of funds in the State Treasury allocated to the use of such delinquent state officer or department.

[1953 c.523 §4]

237.303 Procedure to require public agencies to pay obligations and to comply with retirement law. (1) As used in this section, "public agency" means any public employer, other than the state or one of its agencies, which is a member of the system and which is entitled by law to share in the apportionment of any state revenues or funds.

(2) If any public agency fails to remit

any contribution or pay any other obligation due under ORS 237.001 to 237.315, the board may certify to the Secretary of State the fact of such failure and the amount of the contribution or other obligation due. The board shall send a copy of the certification to the public agency. Upon receipt of the certification the Secretary of State shall draw his warrant for the payment of the amount of such contribution or other obligation out of any state revenues or funds in the State Treasury in which the public agency is entitled by law to share and which have been apportioned to the public agency.

(3) If any public agency fails to furnish any report required under ORS 237.001 to 237.315 or in any other way fails to comply with ORS 237.001 to 237.315, the board may certify to the Secretary of State the fact of such failure. Upon receipt of the certification the Secretary of State shall withhold payment to the public agency of any revenues or funds in the State Treasury in which the public agency is entitled by law to share and which have been apportioned to the public agency until the board certifies to the Secretary of State that the failure has been remedied. The board shall send a copy of each certification it makes under this subsection to the public agency affected.

[1959 c.556 §4]

237.305 Political subdivisions to furnish reports and information; proceedings on default. All political subdivisions subject to the Public Employees' Retirement Act of 1953 shall promptly and regularly transmit to the board all employment reports and other necessary information concerning their respective employees required by the board and in conformance with the rules of the board. Any public employer who fails or neglects to make reports or supply information concerning its employees as required by the rules of the board shall be given written notice of the default. If the default is not remedied within 10 days from the date of the mailing of notice, the board shall send a further request by registered mail. If the default is not remedied within 30 days from the date of mailing such further request, the board may cause its own representative to make such examination and investigation of the employment records of the employer as may be necessary to obtain such information. The costs necessarily incurred in making such investigation, including reasonable travel expenses and the hiring of

clerical assistance, shall be a charge against the account of such public employer in the Public Employees' Retirement Fund. If there is no account of such employer in the fund, the board may collect the amount of such costs and expenses by an action at law.

[Formerly 237.172]

237.311 Mandamus against defaulting employer; appeal. In addition to the remedies otherwise provided by ORS 237.305 the board may, by petition in usual form apply to the circuit court for the county in which is located the public employer concerned, or the principal office or place of business of such public employer, for, and if warranted, to have issued, writs of mandamus to compel such public employer to supply to the board a true and complete list and employment records of such employer's employes and all information concerning such employes that reasonably may be required and sought by said board in such petition. Such writs, among other things, shall direct the defendant therein to make such contributions to the retirement fund on account of such defendant's employes as may appear, from records and information concerning such defendant's employes, to be required by law. Either or both parties thereby aggrieved may appeal to the Supreme Court from, or from any part of, the judgment of the circuit court given and made in such proceeding, as in ordinary mandamus proceedings.

[Formerly 237.174]

237.315 Procedure for board hearings. In order to determine any facts necessary to the administration of the retirement system, the board may conduct hearings, subpoena and examine witnesses and require any person having custody thereof to bring before the board any book, record, document, certificate, writing, article or thing necessary to a determination of facts. The chairman or member of the board acting in such capacity shall have authority to administer oaths. The procedure in such hearings shall be informal. Fees shall not be paid to witnesses who are public officers or employes, whether or not their employer is participating in the system. No public employer shall make deduction from the compensation of public officers or employes because of absence from their respective positions in order to be examined as witnesses before the board. The fees of other witnesses and mileage of any witness shall be the same as al-

lowed by law to witnesses in civil cases in courts of record. Fees and mileage and all other necessary disbursements in connection with a hearing shall be paid by the public employer whose failure or refusal to supply any facts requested of it by the board made necessary such hearing.

[Formerly 237.176]

237.320 Board, on behalf of retired members, may contract for medical and hospital insurance. (1) The board shall investigate terms and conditions upon which hospital and medical or hospital or medical expense insurance protection may be made available to retired members of the system. Such investigation shall be confined to companies authorized to conduct business within the State of Oregon under ORS chapter 736, 741 or 742, and shall be completed before April 1, 1960.

(2) Before June 1, 1960, the board shall, in writing, inform such retired members of the results of such investigation and therewith supply them with a summary of the plan of such insurance protection by it deemed to be the most advantageous to them.

(3) Thereafter, and before July 1, 1960, the board shall, in writing, conduct a poll of all such retired members to determine whether or not they desire that, in their behalf, the board execute a contract or contracts for such coverage. If a sufficient number of such retired members so balloting request such coverage, the board, in behalf of the eligible retired members so requesting, promptly shall enter into such contract or contracts as are contemplated by such plan.

(4) The board may enter into more than one such contract with one or more such insurance carriers, contracting jointly or severally, if in its opinion it is necessary so to do to obtain optimum coverage at minimum cost.

(5) If any such contract or contracts are executed by the board, it thereafter shall deduct from the retirement benefit payable to each such participating member the cost of providing such insurance coverage for him and remit it to the insurance carrier or carriers supplying such coverage.

(6) Periodically, the board shall review the current contract or contracts for such insurance coverage and make suitable inquiry in the field for the purpose of determining whether or not a different contract or contracts for such coverage can be, and

in the best interest of such participating members ought to be, entered into; and if it thereupon appears to the board that it would be advantageous to such participating members so to do, the board shall enter into such different contract or contracts in their behalf.

[1959 c.319 §2]

237.325 to 237.400 [Reserved for expansion]

COVERAGE OF EMPLOYEES UNDER FEDERAL SOCIAL SECURITY ACT

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

(1) "Public agency" or "political subdivision" means the State of Oregon, any city, county, municipal or public corporation or any political subdivision of the State of Oregon or any instrumentality thereof, or any school district, the employes of which constitute a coverage group.

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

[Amended by 1953 c.192 §7]

237.411 Construction of ORS 237.412 to 237.418 as supplemental to ORS 237.420 to 237.520. The provisions of ORS 237.412 to 237.418 relating to Old Age and Survivors Insurance coverage are supplemental to ORS 237.420 to 237.520, and shall be so construed.

[1953 c.180 §8]

237.412 Declaration of policy regarding federal social security protection for employes of state and political subdivisions. In order to extend to employes of the State of Oregon, all the school districts and all the political subdivisions of the state participating in the Public Employes' Retirement System immediately prior to March 27, 1953, and to the dependents and survivors of such employes, the basic protection accorded to others by the Old Age and Survivors Insurance system embodied in title 2 of the Federal Social Security Act, it hereby is declared to be the policy of this state, subject to the limitations of ORS 237.412 to 237.418, that such action be taken, and hereby it is expressly authorized, as to provide such protection to employes of the state and its politi-

cal subdivisions on as broad a basis as is permitted under applicable federal law.

[1953 c.180 §1]

237.414 Extension of federal social security benefits to employes of state and certain political subdivisions. (1) The Public Employes' Retirement Board hereby is authorized and directed to enter into an agreement or modification of such agreement with the Federal Security Administrator [Secretary of Health, Education and Welfare] on behalf of the State of Oregon, consistent with the terms and provisions of ORS 237.412 to 237.418, for the purpose of extending the benefits of the Federal Old Age and Survivors Insurance system to employes of the state and the political subdivisions which at the time of repeal of chapter 401, Oregon Laws 1945, were participating in the Public Employes' Retirement System established by that chapter. The board may authorize its executive secretary, on behalf of and in the name of the board, to sign modifications of the agreement including within the agreement legally qualified eligible public agencies.

(2) The agreement shall provide benefits for employes whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of title 2 of the Social Security Act.

(3) The duties and obligations of the state and its political subdivisions as employers, in relation to such agreement, shall be as provided by ORS 237.420 to 237.520.

(4) Such agreement or modification thereof shall be effective with respect to services performed after an effective date specified in such agreement or modification, but in no case prior to January 1, 1951.

(5) All services which:

(a) Constitute employment within the meaning of title 2 of the Social Security Act,

(b) Are performed in the employ of the state or a political subdivision or in the employ of an instrumentality of either the state or a political subdivision, or both, and

(c) Are covered by a plan which is in conformity with the terms of the agreement and which has been approved by the board, shall be covered by the agreement.

(6) The Public Employes' Retirement Board hereby is authorized and directed to include in the agreement for Old Age and Survivors Insurance coverage to be executed

by the board with the Federal Security Administrator [Secretary of Health, Education and Welfare] in conformance with this section, the elective officers of the political subdivisions described in subsection (1) of this section, and the elective officers of the State of Oregon, except members of the Legislative Assembly and officers who are eligible for membership in the judges' retirement system of this state.

[1953 c 180 §12, 1953 c 193 §1, 1957 c 261 §1]

237.418 Authority of interstate agencies to extend federal social security benefits to their employes. (1) Any instrumentality jointly created by this state and any other state or states hereby is authorized, to the extent that this state may confer authority, upon the granting of like authority by such other state or states:

(a) To enter into an agreement with the Federal Security Administrator [Secretary of Health, Education and Welfare] whereby the benefits of the Federal Old Age and Survivors Insurance system shall be extended to employes of such instrumentality;

(b) To require its employes to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay if they were covered by an agreement made pursuant to ORS 237.414; and

(c) To make payments to the Secretary of the Treasury of the United States in accordance with such agreement, including payment from its own funds, and otherwise to comply with such agreement.

(2) Such agreement shall, to the extent practicable, be consistent with the terms and provisions of ORS 237.412 and 237.414.
[1953 c 180 §13]

237.420 Agreements to extend federal social security coverage to employes of public agencies not covered by ORS 237.414. The Public Employes' Retirement Board established by ORS 237.952 shall, for the purposes of administration of this law, after March 27, 1953, succeed to the powers and duties of the Public Employes' Retirement Board established by chapter 401, Oregon Laws 1945, as amended, and shall, upon application by any public agency in accordance with ORS 237.430 and 237.440, execute on behalf of the state an agreement or modification of such agreement, with the Federal Security Administrator [Secretary of Health, Edu-

cation and Welfare], or his designated agent or successor, for the coverage of employes of such public agency under the insurance system established by title 2 of the Federal Social Security Act in conformity with the provisions of section 218 thereof and amendments thereto, and applicable federal regulations adopted pursuant thereto.

[Amended by 1953 c 192 §7]

237.430 Public agencies to be included in the agreement. The agreement shall include each coverage group as to which formal request for inclusion is made by the legislative or governing body of the employing public agency pursuant to ORS 237.440, prior to the effective date of the agreement, or any modification thereof. However, the board shall not be required to include in any agreement or modification any public agency which is not entitled by law to share in any apportionment of state revenue or funds and has at any time within the 10 years next preceding the date of its application been insolvent or failed to pay when due, the principal or interest of its bonds, warrants or other obligations

[Amended by 1953 c 192 §7]

237.440 Application by political subdivision for inclusion. The legislative or governing body of every political subdivision may make formal application to the Public Employes' Retirement Board for inclusion of the eligible employes of such political subdivision in the agreement or any modification thereof

[Amended by 1953 c 192 §7, 1955 c 278 §1]

237.450 Starting date for contributions. Every public agency included in the agreement pursuant to ORS 237.430 and 237.440 shall be liable for the contributions required to be remitted by an employer under the provisions of sections 1400 and 1410 of the Federal Internal Revenue Code and amendments thereto, except that no contributions required by ORS 237.460 shall be withheld or remitted prior to July 1, 1951, or prior to the approval of the agreement by the Federal Security Administrator [Secretary of Health, Education and Welfare]
[Amended by 1953 c 192 §7]

237.460 Withholding and remitting of employes' contributions. Every public agency included in the agreement shall withhold from wages and salaries paid by it to officers and employes covered by the agreement, and remit to the retirement board,

that portion required to be withheld from the salaries and wages of employes under the provisions of section 1400 of the Federal Internal Revenue Code and amendments thereto.

237.465 Employes required to contribute. All employes of the state, all employes of the school districts of the state and all employes of political subdivisions of the state subject to the agreement for Old Age and Survivors Insurance coverage, other than employes specifically excluded by that agreement, shall make contributions for such coverage as required by ORS 237.460
[1955 c 278 §2]

237.470 Retirement board to promulgate regulations. The Public Employes' Retirement Board shall promulgate regulations, not inconsistent with ORS 237.410 to 237.520, necessary to provide proper procedures to assure conformity with section 218 of title 2 of the Federal Social Security Act and amendments thereto, and federal regulations adopted pursuant thereto. Such regulations shall include provisions governing application procedures, requiring an applicant to present proof satisfactory to the board of its ability to discharge its obligations under ORS 237.410 to 237.520, determining the extent of coverage within separate coverage groups, and provisions prescribing the time and manner of filing reports and making any payment required by ORS 237.410 to 237.520.

237.480 Procedure against employer failing to comply with regulations. If an employer fails to report or remit to the retirement board in the manner and within the time prescribed in the regulations adopted by the board, the board, without notice, may send an auditor to the office of the employer to examine its records and to obtain the necessary reports or remittances, the entire cost of such audit to be paid by the delinquent employer.

237.490 Deposit and audit of funds. All employer and employe contributions and other moneys received or collected by the Public Employes' Retirement Board under ORS 237.410 to 237.520 shall be deposited in the State Treasury to the credit of the General Fund in an account to be known as the Social Security Revolving Account and such account hereby is appropriated for the purposes of ORS 237.410 to 237.520. The

Secretary of State may audit all duly approved claims certified by the Public Employes' Retirement Board for the payment of amounts required to be paid to the Secretary of the Treasury pursuant to agreements entered into under ORS 237.430 to 237.440, and for the payment of necessary refunds and may issue his warrants therefor payable out of the Social Security Revolving Account.

237.500 Administrative expenses. All expenses of the Public Employes' Retirement Board incurred in administering the provisions of ORS 237.410 to 237.520, including such proportion of the salary of the executive secretary, counsel, professional consultants and employes of the retirement board, as the time required of them for the administration of ORS 237.410 to 237.520 shall bear to the time required for the administration of both ORS 237.410 to 237.520 and the public employes retirement law, shall be paid in the manner provided by law, out of the Social Security Revolving Account. For such purpose, the board may make monthly withdrawals from said account in lump sums. The board may, under such rules as it promulgates, collect from each public agency its respective pro rata share of the expenses incurred in administering ORS 237.410 to 237.520. Each public agency included in the agreement pursuant to ORS 237.430 is required to pay its pro rata share of the expenses incurred by the board in administering ORS 237.410 to 237.520. In order to facilitate financing the administration of the system the board may designate fiscal periods and may provide that extraordinary expenses incurred during one such period, such as expenses for equipment, may, for purposes of equitably distributing part of the burden of the expenses, be apportioned to subsequent fiscal periods in such manner as to the board seems equitable.

[Amended by 1953 c 192 §7]

237.510 Collection of delinquent remittances. (1) Upon failure of any public agency to remit contributions or pay its pro rata share as provided by ORS 237.500 and determined by the board, the board may recover by action in a court of competent jurisdiction the amount due and unpaid. Any public agency delinquent in submitting reports, records or remittances, shall be charged interest on the total amount of remittance due from it, at the rate of one-half of one percent per month or fraction thereof during which such agency is in default. Interest so paid

shall be deposited in the Social Security Revolving Account and shall be used by the board in paying the expenses of administration and any penalties which the board may incur.

(2) In order to obtain prompt remittance of contributions and payment of obligations due under ORS 237.410 to 237.520, the board, in the event of delinquency of any public agency entitled by law to share in the apportionment of any state revenues or funds, shall certify the amount of such delinquency to the Secretary of State, who shall draw his warrant for payment of the claim out of any revenues or funds in the State Treasury apportioned to the delinquent public agency

[Amended by 1953 c 192 §7]

237.515 Exclusion of contributions from biennial budget. Contributions required by ORS 237.410 to 237.520 to be placed in the Social Security Revolving Account and thereafter remitted to the Secretary of the Treasury of the United States shall not be included in the biennial budget of the Public Employes' Retirement Board as income or expenses of such board.

[1953 c 192 §7]

237.520 Social Security Revolving Account appropriation. For the purpose of establishing the Social Security Revolving Account created by this Act, there hereby is appropriated out of the General Fund in the State Treasury and transferred to and made a part of the Social Security Revolving Account, the sum of \$5,000. In computing the expenses of administration of ORS 237.410 to 237.520 the Public Employes' Retirement Board, during each of the first five years following the date of the first agreement executed under ORS 237.420, shall include as expenses of administration the sum of \$1,000 in excess of the actual expenses incurred by the board in such year. At the end of the sixth month following the first five years the entire sum of \$5,000 shall be repaid to the General Fund.

237 530 to 237 940 [Reserved for expansion]

LIQUIDATION OF PRE-1953 RETIREMENT SYSTEM

237.950 Pre-1953 Public Employes' Retirement System abolished. The Public Employes' Retirement System of the State of Oregon, established by chapter 401, Oregon Laws 1945, as amended, hereby is abolished,

subject to the provisions of ORS 237.950 to 237.980.

[1953 c 180 §2]

237.952 Public Employes' Retirement Board. (1) There hereby is established and created the Public Employes' Retirement Board, which shall administer the provisions of ORS 237.414 and 237.950 to 237.980, shall have powers and duties herein provided, and shall be comprised of five persons appointed by the Governor. The term of each appointee shall be four years.

(2) The board shall have the powers and privileges of a corporation, including the right to sue and be sued in its own name.

(3) Members of the board shall be citizens of the United States and residents of the State of Oregon for at least two years immediately preceding their appointment to the board. Two members shall not be employed by a public employer during their respective terms of office on the board or have been so employed during the two years immediately preceding appointment to the board. The other three members of the board shall be employes of public employers under social security coverage and so employed throughout the respective terms of their appointment. Upon March 27, 1953, the board may be composed of the members of the Public Employes' Retirement Board appointed under authority of chapter 401, Oregon Laws 1945, and they shall serve for the terms of their respective appointments previously made by the Governor, if qualified under the provisions of this section, but in any event the term of one shall expire June 30, 1953, one on June 30, 1954, one on June 30, 1955, one on June 30, 1956, and one on June 30, 1957. Any vacancy on the board shall be filled by appointment for the unexpired term of the member replaced.

(4) The successor of a board member in either group shall have the qualifications herein prescribed for such group.

(5) The board shall, at its first meeting of each fiscal year, designate one of its members to serve as chairman of the board for the ensuing year and until his successor is designated and takes that office. The board shall hold meetings as frequently as may be necessary for the performance of its duties.

(6) Within the limitations of ORS 237.414 and 237.950 to 237.980, the board shall have the power to establish and enforce rules and regulations for transacting its business and administering ORS 237.414 and 237.950 to 237.980.

(7) Members of the board shall serve without compensation but shall be reimbursed for their necessary expenses incurred in the performance of their duties as such members.

[1953 c 180 §9, 1953 c 521 §3]

237.956 Executive secretary and staff.

The board shall employ an executive secretary whose duties shall be as hereinafter provided. All ministerial duties required in the administration of ORS 237.414 and 237.950 to 237.980 shall be performed by the executive secretary and by employes under his direction. The executive secretary shall hold his position during the pleasure of the board and shall furnish such bond as required by the board. The board shall also designate an employe to perform duties in the absence of the executive secretary.

[1953 c 180 §10]

237.960 Transfer of assets and administration of retirement fund. (1) All assets of the previously existing Public Employees' Retirement System, as of March 27, 1953, including moneys and securities, accounts receivable, office equipment and all personal property of any description, hereby are transferred to the Public Employees' Retirement Board created and established by ORS 237.952, which board shall have control thereof for the purpose of liquidating the obligations of the Public Employees' Retirement System and otherwise applying such assets as herein directed.

(2) During the period of liquidation the board may invest and reinvest moneys, purchase, sell and exchange securities as in its judgment to the best interest of beneficiaries.

(3) The board shall succeed to all the duties and prerogatives of the Public Employees' Retirement Board created by chapter 401, Oregon Laws 1945, as amended, in relation to the Public Employees' Retirement Fund. Said fund shall be and remain a trust fund for the purpose of liquidating the obligations of the abolished retirement system, and the Public Employees' Retirement Board created by ORS 237.952 hereby is declared to be the trustee of said fund.

(4) From the current service account of the State of Oregon in the Public Employees' Retirement Fund there shall be transferred to the Social Security Revolving Account an amount of \$60,000 which shall be recovered from the participating employers in the manner prescribed by ORS 237.520, and upon

recovery shall be repaid to the Public Employees' Retirement Board

[1953 c 180 §3]

237.964 Collection of accrued liabilities. In order to liquidate accrued liabilities with respect to prior service credit and delinquent contributions, each public employer which at any time prior to March 27, 1953, has participated in the Public Employees' Retirement System shall continue to remit payments to the Public Employees' Retirement Board at the rate and in the time and manner prescribed by chapter 401, Oregon Laws 1945, as amended. The board shall have a right of action against any such public employer for the enforcement of the provisions of this section

[1953 c 180 §5]

237.968 Continuation of retirement benefits of certain members. The board shall pay all retirement benefits to which members of the Public Employees' Retirement System who retired prior to March 27, 1953, may be entitled under the provisions of chapter 401, Oregon Laws 1945, as amended, and shall give full recognition to all rights to which such members are entitled under said law. The board also shall determine and pay in accordance with the provisions of that law retirement benefits to which members of the Public Employees' Retirement System are entitled by the provisions of said law.

[1953 c 180 §4]

237.972 Continuation of abolished system with regard to certain members. Notwithstanding any other provision of chapter 180, Oregon Laws 1953, chapter 401, Oregon Laws 1945, as amended, shall remain in full force and effect with respect to any employe of a public employer which heretofore withdrew from the Public Employees' Retirement System pursuant to subsection (5) of section 8 of said law, as amended by section 1, chapter 322, Oregon Laws 1951, who did not sign the petition for such withdrawal. Such employe shall be and remain a member of the Public Employees' Retirement System with full rights and benefits thereunder as if chapter 180, Oregon Laws 1953, had not been passed; and until the entire obligation of the public employer with respect to all such employes, as provided in chapter 401, Oregon Laws 1945, as amended, shall have been paid in full, such public employer shall continue to deduct from payrolls and transmit the contributions thereby required and make the matching contributions thereby required to the

Public Employees' Retirement Board created by ORS 237.952 and such public employer shall remain liable to such Public Employees' Retirement Board for all contributions required by such law together with interest thereon at the legal rate from the date of any delinquency
[1953 c 180 §11]

237.976 Disposition of contributions made under abolished system. (1) From contributions of each employe and the matching contributions of his employer, respectively, due and paid to the Public Employees' Retirement Fund for services performed after January 1, 1951, there shall be deducted as much thereof as necessary to constitute an amount equal to the total sum of the tax which would have been imposed upon the employe and the employer, respectively, by sections 1400 and 1410 of the Internal Revenue Code, if the services of the employe subsequent to January 1, 1951, had constituted employment as defined by section 1426 of such Code; provided, however, that no such deductions shall be made from the contributions of the employes referred to in ORS 237.972 or from the matching contributions of their employers, heretofore or hereafter paid into the Public Employees' Retirement Fund. A sum equal to the total of the amounts deducted as provided in the preceding sentence hereby is transferred from the Public Employees' Retirement Fund to the Social Security Revolving Account in the General Fund created by ORS 237.490, and shall be expended by the Public Employees' Retirement Board in payment of the contributions required to secure coverage under the system of Old Age and Survivors Insurance established by title 2 of the Social Security Act, effective from January 1, 1951, for all employes with respect to whom such deductions were made.

(2) Each member of the Public Employees' Retirement System shall have the right to a refund of all contributions heretofore paid by him into the fund after deducting therefrom the amount herein specified for social security coverage, providing that within 60 days after the March 27, 1953, he signs and files a written request therefor with the Public Employees' Retirement Board, in which event such contribution shall be paid to him by the Public Employees' Retirement Board as soon thereafter as practicable

and in no case later than October 1, 1953. The refund of all contributions paid by him, as by this section authorized, in the case of each applicant who receives such refund shall extinguish all his rights of membership in the Public Employees' Retirement System established by chapter 401, Oregon Laws 1945, including the right to claim credit for any time whatever spent in public employment prior to his receipt of such refund. Unless an employe shall have filed such request for refund within said 60 days the balance of his contributions remaining after such deduction, together with an equal amount contributed by his employer, and the contributions of his employers based on his prior service credit, shall be used to purchase retirement benefits for such employe in accordance with ORS 237.001 to 237.315. If, pending such disposition of employes' contributions, any employe should die, his accumulated contributions shall be paid as he shall have directed in writing. In the absence of such written direction, his accumulated contributions shall be paid in accordance with the provisions of chapter 401, Oregon Laws 1945, as amended.

(3) There shall be no refund made to any participating employer until such time as all liabilities against such employer have been fully liquidated and discharged
[1953 c 180 §6, 1953 c 521 §1]

237.980 Rights and moneys exempt from taxation, execution and bankruptcy and are unassignable. During the entire period of liquidation of the Public Employees' Retirement System, the right of a person to a pension, annuity or a retirement allowance, to the return of contributions upon separation from service with a public employer, the refund of contributions authorized by ORS 237.976, the payment of annuity, or retirement allowance itself, any optional benefit or death benefit, or any right accrued or accruing to any person under the provisions of the repealed Public Employees' Retirement Act [chapter 401, Oregon Laws 1945] or ORS 237.412 to 237.418 or 237.950 to 237.980, shall be exempt from all state, county and municipal taxes, and shall not be subject to execution, garnishment, attachment or any other process or to the operation of any bankruptcy or insolvency law, and shall not be assignable
[1953 c 180 §7; 1953 c 521 §2]

PUBLIC OFFICERS AND EMPLOYES

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 December 1, 1961

Sam R. Haley
Legislative Counsel