Chapter 239

1961 REPLACEMENT PART

Retirement Plan For School District Employes

TEACHERS' RETIREMENT ACT

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TEACHERS' RETIREMENT ACT

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

(1) "Academic year" means the period between July 1 and June 30 next following during which school is normally in session in the school district

(2) "Active member" means a member of the association who has not retired on account of age or disability.

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

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

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

(6) "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) A teacher who had returned to the service of the school district as of January 1, 1945, and who remained in that employment until July 1, 1946.

(b) A teacher who was in the Armed Services on January 1, 1945, and returned to the school district within one year of the date of being otherwise than dishonorably discharged and remained in that employment until having established membership in the Teachers' Retirement System

(7) "Fiscal year" means 12 calendar months commencing on the first day of July and ending on the thirtieth day of June following.

(8) "Pension" means annual payments for life derived from contributions by a school district as defined in this section.

(9) "Public Employes' Retirement System" or "Public Employes' Retirement Act" means the provisions of ORS 237 001 to 237.315.

(10) "Public employer" means the same as that term is defined in ORS 237.003.

(11) "Salary" means the remuneration paid a teacher in cash out of the funds of a school district in return for his services to the school district.

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

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

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

(15) "Teacher" includes all superintendents, assistant superintendents, supervisors, principals, vice principals, directors of departments, and instructors in the employ of school districts as defined in this section pursuant to an election by the school board for a period of one year or more.

[Amended by 1959 c 613 §2]

239.004 Short title. ORS 239.002 to 239.263 shall be known as the Teachers' Retirement Act.

[1959 c 613 §1]

239.006 to 239.100 [Reserved for expansion]

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

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

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

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

239.106 Approval of plan by teachers. No association shall be incorporated or commence to collect and disburse funds until the plan proposed by the teachers is ap-

proved in writing by a majority of all the teachers in employ of the school district. At the time of incorporation, there shall be filed with the articles of incorporation an affidavit made by the clerk of the school district to the effect that a majority of the teachers have approved in writing the formation of the association.

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

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

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

239.112 Duties of incorporators; election of trustees. (1) The incorporators shall execute and file articles of incorporation as by law provided, and shall receive and act upon applications for membership in such association until 300 members have been elected.

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

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

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

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

239.116 Board of trustees is governing body. The management and administration of the affairs of the association shall be vested in a board of trustees of seven members elected by the active members of the association.
[Amended by 1959 c 613 §3]

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

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

(2) To provide for the payment of retirement annuities and pensions and disability retirement annuities and pensions to members of the association to whom such payments become payable under this chapter.

(3) To invest and reinvest moneys paid into the retirement fund by members of the association, and to do all things necessary and desirable to the proper investment, management and safekeeping of the funds. The school board may, but is not required to, issue directives concerning the investments and investment reserves of the association, and the board of trustees shall adhere to all such directives as may be issued by the school board.

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

(5) To prepare and submit to the school board each year an annual report.

(6) To administer the business and affairs of the association.

(7) To receive, hold, sell, mortgage and otherwise dispose of real and personal property, either by gift or purchase or in any other lawful ways, and also to loan and invest the funds of the association in such manner as the officers of the association may deem best and as may be provided by its articles of incorporation and bylaws.
[Amended by 1959 c.613 §4; 1961 c.574 §6]

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

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

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

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

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

(1) The name of each active member, the amount of the reserve of each active member on the records of the association, and the monthly contributions being paid by each active member.

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

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

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

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

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

(7) A statement setting forth the total costs and expenses of administering and managing the association during the calendar year immediately preceding the date on which the annual report is filed.

(8) A statement listing the total assets of the association as of the last day of the calendar year immediately preceding the date on which the annual report is filed. [Amended by 1959 c 613 §5]

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

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

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

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

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

(3) If the association fails, within 90 days after receiving a statement of default, to make good the default or rectify the non-

compliance with law, the school board may bring suit in the circuit court of the county in which the school district is located for a declaratory judgment and decree to establish the rights, duties and obligations of the association with respect to the illegal acts, practices or procedures and for such relief, mandatory or otherwise, as the court shall adjudge or decree.

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

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

239.130 [Renumbered 239 138]

239.131 [1959 c 613 §40, repealed by 1961 c 574 §10]

239.133 Reserve accounts in fund. (1) At the close of each calendar year, the board of trustees of the association shall set aside, out of interest and other income received through investment of the Teachers' Retirement Fund during the calendar year, such part of said earnings as the board of trustees and the school 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 of trustees to prevent any deficit of moneys available for the payment of retirement allowances, due to interest fluctuations, changes in mortality rate, administrative expenses, loss of invested capital or other unforeseen contingency.

(2) At the close of each calendar year, the board of trustees 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 annuities; provided, however, that if the total income available for distribution exceeds two and one-fourth percent of the total accumulated contributions of active members, the reserves for annuities shall participate in such excess. [1959 c 613 §37]

239.135 Actuarial report. At least once every four years, and as often as requested by the school board, the board of trustees of the association 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 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 of trustees shall deliver copies of the report to the members of the school board. [1959 c 613 §38]

239.137 Administrative expenses of system. (1) The administrative expenses of the Teachers' Retirement System shall be paid from interest and other income earned by the retirement fund; provided, that if such interest and other income be insufficient the expense in excess thereof shall be paid from the reserve account provided by ORS 239.133

(2) In order to facilitate financing and administration of the system the board of trustees may provide that extraordinary expenses incurred during one calendar year, 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 calendar years in such manner as to the board of trustees seems equitable.

(3) For each calendar year there shall be deducted from the interest and other income earned by the retirement fund, the administrative expenses of the system for that period; provided, that if such interest and other income be insufficient for such purpose, the excess expense shall be paid by deducting the amount thereof from the reserve account provided by ORS 239.133.

(4) Amounts payable as refunds and retirement allowances shall not for any purpose be deemed expenses of the board of trustees
[1959 c 613 §39]

239.138 School board expenses. The school board of a school district in which an

association has been organized pursuant to this chapter may expend from the general fund of the school district such sums of money as are necessary for the payment of attorneys, actuaries, physicians, surgeons, clerk hire and such other costs and expenses as are incurred by the school board in the performance of its powers and duties under this chapter in the enforcement of its provisions.
[Formerly 239 130]

239.140 Reissuance of warrant, check or order after seven years. Any warrant, check or order for the payment of benefits or refunds under the system, by the association, 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 of trustees of the association 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.
[1961 c 574 §4]

239.142 to 239.200 [Reserved for expansion]

239.201 Teachers' Retirement System, purpose. (1) A system of retirement and of benefits at retirement or death for teachers in each school district in which there exists an association established pursuant to this chapter hereby is established and shall be known as the Teachers' Retirement System of such school district and be administered by the association as provided in this chapter.

(2) The provisions of ORS 239.131 to 239.137 and 239.201 to 239.263 shall be so construed and administered as to effectuate the general purpose to make uniform the contributions and benefits provided by ORS 239 131 to 239.137 and 239.201 to 239.263 with respect to members of the Teachers' Retirement System and the contributions and benefits provided by the Public Employes' Retirement Act with respect to teachers of the school district who are members of the Public Employes' Retirement System.

(3) For the purpose of such uniform construction and administration, the Teachers' Retirement System created by ORS 239.201 to 239.263 shall be deemed to have been in existence on and after July 1, 1946, and, as to each member of the association who has not retired on account of age or disability prior to July 1, 1959, service and membership in the association during any period of time from July 1, 1946, shall be deemed service and membership while a member of this system.
[1959 c 613 §§7, 41]

239.202 [Repealed by 1959 c 613 §44]

239.203 Uniformity of contributions and benefits for teacher members of Teachers' Retirement System and Public Employes' Retirement System. (1) The objective of the Teachers' Retirement Act shall be to provide each teacher who is an active member of the association on July 1, 1959, a disability retirement allowance of the amount hereinafter provided for and a total service retirement allowance equal in amount to the total service retirement allowance he would be entitled to at the same rates of employe contributions subject to the same elections as are provided for from time to time by the Public Employes' Retirement Act with respect to retirement benefits at date of retirement and as are provided for from time to time by that Act with respect to employe contributions had he become a member of the Public Employes' Retirement System on July 1, 1946, or upon completing six months' service to the school district uninterrupted by a total of more than 30 working days during the six-month period, whichever is later, and had his employe contributions toward retirement and subsequent service to the school district been made and performed at identical times and in identical amounts as a member of the Public Employes' Retirement System.

(2) Each teacher shall make the same contributions as required under the Public Employes' Retirement Act, as that Act may be amended from time to time, and shall have the same elections with respect to contributions to be exercised at the same times, with the same effect and subject to the same limitations as under that Act. Such election shall be exercised by written notice to the school board and to the board of trustees of the association. From each payroll during the period the school district shall deduct the amount of such contributions and shall transmit the deduction to the association, which shall cause it to be credited to his account in the fund.

(3) The age, sex and classification rate applicable to a teacher establishing membership in the Teachers' Retirement System

shall be identical with the rate applicable from time to time to a person of the same sex who had established membership in the Public Employes' Retirement System at the same time, at the same age and in the same classification.

(4) For the purposes of those parts of this section relating to contributions, the year shall be the calendar year commencing on the first 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 teacher.

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

(a) A teacher who has elected to raise his contribution rate from the minimum percentage prescribed by the Public Employes' Retirement Act to the fixed rate prescribed by that Act within 12 months immediately preceding his disability shall have his pension benefits computed on the five percent rate.

(b) A teacher who has elected within 12 months immediately preceding his disability to contribute on all salary prescribed by the Public Employes' Retirement Act shall have his pension benefits computed as though his salary did not exceed said maximum per year.

[1959 c 613 §11]

239.204 [Repealed by 1959 c 613 §44]

239.205 School board payments to association for monthly pension and death benefit payments. Upon certification as of the due date thereof by the board of trustees of the association, the school board at monthly intervals shall pay into the association the monthly pension payments currently due to retired members of the association, and the death benefit payments currently due to the beneficiaries of deceased members of the association.

[1959 c 613 §12, 1961 c 574 §7]

239.206 [Amended by 1953 c 265 §3; repealed by 1959 c 613 §44]

239.207 Taxes to finance school board's obligations under retirement system. The school board shall levy and collect annually as part of the taxes levied and collected for school purposes a tax sufficient in the aggregate, together with all fines, penalties and forfeitures collected or received by the school district from teachers or other employes of the school district for violation of any rule, regulation or law adopted or enacted for the government of such teachers and employes, to continue the pensions of members of the association who retired on account of age or disability prior to July 1, 1959, and to pay the pensions and other expenses imposed upon it by reason of the Teachers' Retirement System created by ORS 239 201 to 239 263

[1959 c 613 §42]

239.209 Membership in system; when compulsory, when optional. No person may become a member of the system unless he is in the service of the school district and has completed six months' service uninterrupted by a total of more than 30 working days during the six-month period. Every teacher who as a result of an election by the school board for a period of one year or more completes the six-month period after July 1, 1959, in a school district in which an association has been organized pursuant to this chapter shall become a member of the system at the beginning of his first full pay period following the six-month period, and every active member of such association who has completed the six-month period on July 1, 1959, shall be a member of the system, except that any member of the Public Employes' Retirement System who, through the annexation of a political subdivision employing him or by change of employment, becomes a teacher in the school district 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 he shall by written notice to the Public Employes' Retirement Board, to the board of trustees of the association and to the school board elect to relinquish membership in the Public Employes' Retirement System and become a member of the Teachers' Retirement System if eligible for membership in that system, and he shall be so carried by the school district. Immediately upon such annexation of any political subdivision or such change of employment, the board of trustees of the association shall inform such teacher in writing of his right to exercise an election as in this section provided.

[1959 c 613 §8]

239.211 Effect of interrupted service 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 shall be deemed to break the continuity of the teacher's membership in the Teachers' Retirement System.
[1959 c 613 §13]

239.213 Termination of membership. A teacher shall cease to be a member of the Teachers' Retirement System:

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

(2) In the event that he is absent from the service of the school district for a total of more than five school years after he becomes a member of the system; except that any teacher 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 July 1, 1946.
[1959 c 613 §17]

239.215 Separation from service prior to earliest retirement age; reentry of service. (1) In the event that a teacher who is a member of the Teachers' Retirement System who has made contributions to the fund during each of 10 calendar years, 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 239 201 to 239.263 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; and

(b) A pension which when added to the annuity referred to in paragraph (a) of this subsection shall provide him the same total retirement allowance he could receive from the Public Employes' Retirement System had he become a member of that system on July 1, 1946, or upon completing six months' service to the school district uninterrupted by a total of more than 30 working days during the six-month period, whichever is later, and had his employe contributions toward retirement and subsequent service been made and performed at identical times and in identical amounts as a member of the Public Employes' Retirement System and had his separation from service for a reason other than superannuation, death or disability occurred at the identical time as a member of the Public Employes' Retirement System.

(2) In the event that a teacher 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 Teachers' Retirement System, including the right to claim credit for any employments prior to withdrawal. If such teacher 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 shall be used to purchase a deferred monthly life annuity payable at the teacher's request after he reaches earliest retirement age, which shall be matched by equal monthly pension payments payable by the school district through the association.

(3) Whenever, within five years after he is separated from all service entitling him to membership in the system, a teacher who has withdrawn the amount credited to him reenters the service of the school district, his rights in the system which were forfeited by the withdrawal shall be restored upon his repaying to the association within six months after reentering the service of the school district, the full amount so withdrawn.
[1959 c 613 §18]

239.217 Voluntary retirement; earliest service retirement age. A certificated teacher who is a member of the Teachers' Retirement System and attains the age of 50 shall be retired upon his written application to the school board and to the board of trustees of the association 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 239 227.
[1959 c 613 §20]

239.219 Reemployment of member after voluntary retirement but before reaching compulsory retirement age. (1) (a) Any member of the Teachers' Retirement System who is retired after having reached his earliest service retirement age, but before having reached his compulsory retirement age, and who has been retired for more than six consecutive calendar months, may be reemployed before reaching compulsory retirement age by the school district even though such retired teacher has been receiving retirement benefits.

(b) Any teacher 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. Payments of retirement allowance received by such teacher during his separation from the service shall not be repaid into the retirement fund after he reenters public employment; but the amount of annuity payments included in such retirement allowance shall be deducted from such teacher's reserve in the retirement fund and the remainder of the reserve, if any, shall be credited pro rata to the funds from which it was derived.

(c) Upon reentering the employment of the school district as by this subsection provided, the former retirement of such teacher and any election of option for payment of retirement benefits theretofore made by him shall be canceled; and thereafter upon retiring such teacher may elect any option for payment of retirement benefits authorized by ORS 239.201 to 239.263. Upon such subsequent retirement, the pension paid the teacher shall be the same as if he had formerly retired, reentered employment with the school district as by this subsection provided, and subsequently retired at identical times and under identical circumstances as a member of the Public Employes' Retirement System.

(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 the school district, even though such retired teacher 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 his earlier retirement, and the school district shall receive credit for the pension portion of such benefits
[1959 c 613 §21]

239.221 Compulsory retirement age. Any teacher who is a member of the Teachers' Retirement 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 239.201 to 239.263 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.
[1959 c 613 §22]

239.223 Employment of teacher or member beyond compulsory retirement age; effect on rights of member beyond compulsory retirement age of holding full-time office. (1) Any teacher who is a member of the Teachers' Retirement System and reaches the age of 65 years may be continued in service by the school district thereafter to the extent permitted by the Teachers' Tenure Law, and not otherwise

(2) A teacher continuing in employment after the end of the academic year in which he reaches age 65, who is a member of the Teachers' Retirement System, shall not be permitted to make further contributions to the retirement fund, nor shall the school district incur any additional pension liability on account of such additional service. The account balance of any such teacher shall continue to earn interest and at the time of the retirement of such teacher his benefits shall be computed on his then attained age. Any such teacher 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 teacher before retirement, or upon his retirement, benefits payable under the option elected shall be computed as though both the teacher and the beneficiary were alive. If the beneficiary designated under Option 2 or 3 predeceases a teacher who is a member of the system and who dies

before retiring, the account balance of the teacher is subject to the provisions of ORS 239.259.

(3) Nothing in ORS 239.131 to 239.137 and 239 201 to 239.263 shall be construed to prevent the board of any school district not subject to the Teachers' Tenure Law from applying to the school board of the district in which the association exists for permission to employ a certificated teacher who has reached retirement age, whether or not said teacher has been previously employed by the school board making such application; nor shall ORS 239.131 to 239 137 and 239 201 to 239.263 be construed to prevent the school board of the district in which the association exists 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 239 201 to 239.263.

(4) Except as otherwise specifically provided by ORS 239.131 to 239 137 and 239.201 to 239.263, no teacher who has attained compulsory retirement age can be retained by any public employer other than the school district in which the association exists in the employment of which he attained compulsory retirement age or be employed by any public employer in a position which normally requires 600 hours of service per calendar year.

(5) No member of the association who is elected to a full-time salaried office of the state or one of the 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 member holds such office he shall not be entitled to any pension or annuity provided by ORS 239.201 to 239 263 Upon ceasing to hold such office, his benefits shall be computed or recomputed upon the basis of his age then attained.

[1959 c 613 §23, 1961 c 574 §8]

239.225 Emergency employment by public employer of member receiving service retirement allowance. (1) subject to the limitation in subsection (2) of this section, any public employer may employ any member of the association receiving a service retirement allowance if the administrative head of such employer files with the school board prior to the first payment in each calendar year to such member for services performed after retirement a statement showing to the satisfaction of the school 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 member of the association 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 member as a recipient of retirement benefits under ORS 239.201 to 239.263.

[1959 c 613 §24]

239.227 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 Teachers' Retirement System shall receive a service retirement allowance which shall consist of:

(1) A refund annuity based upon annuity tables adopted by the board of trustees of the association with the approval of the school board for use in the administration of the Teachers' Retirement System, 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, which shall be paid to such person, if any, as he nominates by written designation, duly acknowledged and filed with the board of trustees of the association, or shall otherwise be paid according to the provisions of ORS 239 201 to 239.263 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) A pension (nonrefund) which, when added to the refund annuity referred to in subsection (1) of this section, shall provide him the same total service retirement allowance he would receive from the Public

Employes' Retirement System had he become a member of that system on July 1, 1946, or upon completing six months' service to the school district uninterrupted by a total of more than 30 working days during the six-month period, whichever is later, and had his employe contributions toward retirement and subsequent service been made and performed at identical times and in identical amounts as a member of the Public Employes' Retirement System
[1959 c 613 §25]

239.229 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 teacher who is a member of the Teachers' Retirement System may elect to convert the allowance described by ORS 239.227 as payable on his account after his retirement into a service 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 member's retirement:

Option 1. (a) A life annuity (nonrefund) based upon the annuity tables referred to in subsection (1) of ORS 239.227 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) the life pension (nonrefund) provided by subsection (2) of ORS 239 227; 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 of trustees of the association 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 whom he nominates by written designation duly acknowledged and filed with the board of trustees of the association 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 239.259. 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.
[1959 c 613 §27]

239.231 Election of optional forms by beneficiary of deceased member. If a person who is a member of the Teachers' Retirement System, who has attained compulsory retirement age and who has retired from service, dies without making an election under ORS 239.227 and prior to the expiration of the time within which such election could be made by him, and the records of the association indicate that he has designated his surviving spouse his beneficiary under subsection (1) of ORS 239.259, such surviving spouse may, not more than 60 days after the date of death of such deceased member, elect to receive the amount referred to in subsection (1) of ORS 239.259 or elect Option 2 or Option 3 under ORS 239 227, and designate himself the beneficiary thereunder with the same force and effect as if the election and designation had been properly made by the deceased member.
[1959 c 613 §29]

239.233 Disability retirement allowance. (1) Whenever a teacher who is a member of the Teachers' Retirement System, who has been a teacher of the school district for three years or more, and who is under the voluntary service retirement age, is found, after being examined by one or more physicians selected by the school 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 a pension to be provided by the school district which, when added to the disability retirement refund annuity, shall provide him the same total disability retirement allowance he would receive from the Public Employes' Retirement System had he become a member of that system on July 1, 1946, or upon completing six months' service to the school district uninterrupted by a total of more than 30 working days during the six-month period, whichever is later, and had his employe contributions toward retirement and subsequent service been made and performed at

identical times and in identical amounts as a member of the Public Employes' Retirement System; 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 a teacher who is a member of the Teachers' Retirement System who has been a teacher of the school district for 10 years or more, and who is under the voluntary service retirement age, is found, after being examined by one or more physicians selected by the school 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 pension to be provided by the school district which, when added to the disability retirement refund annuity, shall provide him the same total disability retirement allowance he would receive from the Public Employes' Retirement System had he become a member of that system on July 1, 1946, or upon completing six months' service to the school district uninterrupted by a total of more than 30 working days during the six-month period, whichever is later, and had his employe contributions toward retirement and subsequent service been made and performed at identical times and in identical amounts as a member of the Public Employes' Retirement System; 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) A teacher 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 239.217, 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) A teacher 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 teacher may be found by the school 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 239.233 to 239.241, but shall not be entitled to minimum benefits under ORS 239 237.

(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 July 1, 1946, or before completing six months' service to the school district subsequent to that date uninterrupted by a total of more than 30 working days during the six-month period, whichever is earlier, 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 for which no prior service credit was granted. After July 1, 1946, or upon completing six months' service to the school district uninterrupted by a total of more than 30 working days during the six-month period, whichever is later, 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 Teachers' Retirement System, as evidenced by payroll records. For the purpose of determining a member's eligibility for disability benefits, no leave of absence after a teacher ceases to work for the school district 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 school board as prior to the last day for which the disabled member performed services for the school district No benefits may be paid for any month in which the teacher received salary or sick leave benefits from the school district.

[1959 c 613 §30, 1961 c 574 §9]

239.235 Optional forms of disability retirement allowance. (1) At any time after establishing membership, but before the expiration of 90 days after the school board makes its finding that he is disabled, a teacher who is a member of the Teachers' Retirement 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) A life pension (nonrefund) which, when added to the life annuity referred to in subparagraph(a) of this option, shall provide him the same total disability retirement annuity he would receive from the Public Employes' Retirement System upon electing Option 1 provided by ORS 237 181 had he become a member of that system on July 1, 1946, or upon completing six months' service to the school district uninterrupted by a total of more than 30 working days during the six-month period, whichever is later, and had his employe contributions toward retirement and subsequent service been made and performed at identical times and in identical amounts as a member of the Public Employes' Retirement System; 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 of trustees of the association 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 of trustees of the association 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 239.259. 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 and to the school district of a disability retirement allowance in any optional form shall not exceed the cost to the retirement system and to the school district of a nonrefund disability retirement allowance payable to, and on account of, the member making such election

(4) If a member who would have qualified for disability benefits makes preliminary application for such benefits, but dies prior to being found by the school board to be disabled and prior to electing a plan of benefit payments, his surviving spouse shall receive a life income equal to that payable to a beneficiary under Option 3 named in subsection (1) of this section, with the additional guaranty that if such spouse dies prior to receiving, in the form of monthly benefits, an amount equal to the account balance of the member at the time of his death, the remainder of such account balance shall be paid in a lump sum under ORS 239.259. If there is no surviving spouse to receive benefits under this subsection, the account balance of the member is subject to the provisions of ORS 239 259

[1959 c 613 §31]

239.237 Minimum disability benefits. Whenever a teacher who is a member of the Teachers' Retirement System has been found to be entitled to a disability retirement allowance as provided in ORS 239.233, he shall receive not less than an aggregate of $50 a month under the nonrefund plan, subject to reduction to equivalent actuarial value in the event of his exercising any option provided by ORS 239 235

[1959 c 613 §32]

239.239 Medical examinations for applicants for disability retirement allowance. (1) The school 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 239 201 to 239.263 in the case of any person who refuses to submit to such an examination.

(2) The total costs and expenses of examination and reexamination of members of an association incurred by the school board for the purpose of establishing or determining the existence of disability, with respect to retirement of a member on account of disability, shall be paid by the school district.
[1959 c 613 §33]

239.241 Termination of disability retirement; reemployment or separation benefits. When a member retired because of disability is determined by the school 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 the school district shall receive separation benefits as provided in ORS 239 201 to 239 263
[1959 c 613 §34]

239.242 Hospital and medical insurance for retired members. (1) The board of trustees of the association 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 chapters 736, 741 or 742, and shall be completed before April 1, 1962.

(2) Before June 1, 1962, the board of trustees of the association 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, 1962, the board of trustees of the association shall, in writing, conduct a poll of all such retired members to determine whether or not they desire that, in their behalf, the board of trustees 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 of trustees of the association 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 of trustees, 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 of trustees of the association 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 of trustees that it would be advantageous to such participating members so to do, the board of trustees shall enter into such different contract or contracts in their behalf.
[1961 c 574 §3]

Note: ORS 239 242 was added to and made a part of ORS 239 002 to 239 263 but was not added to and made a part of ORS 239 201 to 239 263

239.243 Individual accounts for each member. The board of trustees of the association shall provide for an individual account for each member of the Teachers' Retirement System. Such account shall show the amount of the member's contributions to the fund and the interest which they have earned. The board of trustees of the association shall furnish a written statement thereof upon request by any member or beneficiary of the system.
[1959 c 613 §36]

239.245 Account balances for members of system on June 30, 1959. On July 1, 1959, and as soon as practicable thereafter, there shall be established with respect to each member of an association organized pursuant to this chapter, who was an active member on June 30, 1959, the normal account balance which would have accumulated to the credit of such member had he been a member of the Public Employes' Retirement System during the time he was a member of the association from and after July 1, 1946, or from and after completing six months' service to the school district uninterrupted by a total of more than 30 working days during the six-month period, whichever is later, and had he been contributing to the Public Employes' Retirement System on the basis of the contribution rates and other tables adopted by the Public Employes' Retirement Board from time to time to attain the objectives of the Public Employes' Retirement System. When the normal account balance has been determined in accordance with this section, any balance in the account of such member in excess of such amount so determined shall be deemed to be excess contributions subject to the provisions of ORS 239.251. When the amount of such normal account balance has been determined in accordance with this section, the board of trustees of the association shall notify each such member of the amount thereof, and also of the amount of his excess contributions. Any such member may, by making written request therefor to the board of trustees of the association within not more than 30 days after receipt of the aforementioned notification from the board of trustees, have his normal account balance redetermined by using a rate of five percent of salary, or the rate adopted by the Public Employes' Retirement Board as aforesaid, whichever from time to time is the lower. Likewise, any such member may, by making written request therefor to the board of trustees of the association within not more than 30 days after receipt of the aforementioned notification from the board of trustees, have his normal account balance redetermined on the basis of any election, with respect to the amount of salary to which the aforementioned rate is to be applied, which was available from time to time under the Public Employes' Retirement Act. Within 30 days after receipt of notice from the board of trustees of the association that a deficiency exists, each such member who has a deficiency in the amount of his account as determined under this section shall make up such deficiency. No part of any excess contributions or interest thereon or the amount of any annuity provided therefrom shall enter into the determination of any pension to be paid by the school district

[1959 c 613 §9]

239.247 Credit for service in Armed Forces prior to 1956. (1) Any teacher of the school district 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 school district shall be entitled, subject to the limitations of ORS 239.201 to 239 263, to credit for all his service to the school district prior to July 1, 1946, and to credit for all his services in the Armed Forces after January 1, 1940, as though he had been a teacher of the school district throughout his service in the Armed Forces after that date.

(2) Any teacher of the school district 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 the school district, shall be entitled, subject to the limitations of ORS 239.201 to 239.263, to credit for all his service in the Armed Forces during World War I, as though he had been a teacher of the school district throughout his service in the Armed Forces

(3) Any teacher of the school district 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 school district, may, within one year of the date of such return or of July 1, 1959, whichever is later, pay to the association 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 the school district. Any lump-sum contribution so made shall be added to the teacher's normal account balance in the retirement fund and in all respects shall be considered as though made by payroll deduction.

(4) This section does not apply to a

teacher who does not return to the service of the school district 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
[1959 c 613 §14]

239.249 Prior service credit and credit for service while transferred or on loan to Federal Government. Any teacher of the school district participating in the Teachers' Retirement System shall be credited, subject to the limitations of ORS 239.201 to 239.263, with service to the school district 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 a teacher of the school district 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 school district from which he was transferred or loaned; provided that such teacher comes within either of the following descriptions:

(1) Prior to performing service with the United States Government, he was employed by the school district and was transferred or loaned to a branch or department of the United States Government pursuant to an agreement between the school district and such branch or department of the United States Government for the transfer or loan of any departmental unit of such school district 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.
[1959 c 613 §15]

239.251 Refund of excess contributions. (1) Any member of the association, other than one who is receiving a retirement allowance, who has made contributions to the retirement fund in excess of the amount required by ORS 239.201 to 239.263, may, upon application therefor to the board of trustees of the association, receive a cash refund of such excess contributions. However, if the member is within five years of earliest retirement age, application for refund, if made, must be submitted in writing to the association office, upon such forms as may be prescribed by the association, before 90 days after August 9, 1961 In such case the association shall refund to the member, within one year after the date his application was submitted, all of his excess contributions appearing on the records of the association as of the date the application was submitted.

(2) Any member of the association who retires after attaining earliest retirement age or who retires at any time on account of disability as provided in ORS 239.233, may apply for refund of all excess contributions belonging to him by making written application to the association office, upon such forms as may be prescribed by the association, not later than 30 days before his effective retirement date In such case the member shall on the effective date of his first retirement allowance receive all of his excess contributions appearing on the records of the association

(3) All excess contributions not withdrawn by a member of the association, whether because of his desire or failure to apply for refund at the times and in the manner prescribed in subsections (1) and (2) of this section, shall be used to acquire for that member after retirement a monthly annuity, in addition to his regular retirement allowance, equal to the actuarial equivalent of such excess contributions existing as of the effective retirement date of the member. No part of any excess contributions, or interest thereon, or the amount of any annuity provided therefrom, shall enter into the determination of any pension to be paid by or contributed to by the school district.
[1959 c 613 §16, 1961 c 272 §1]

239.253 Option of certain separated or retired members to receive lump-sum payments. (1) Any member of the Teachers' Retirement System who has separated from the service of the school district and whose total retirement allowance at compulsory reretirement age or thereafter, as computed by the actuary in accordance with the nonrefund plan, is less than $5 per month, shall be so notified in writing by the association and within 30 days after the date of such notification may, by written notification to the school board and to the board of trustees of the association, 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 to be contributed by the school district, 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 actuary in accordance with the nonrefund plan on the basis of that rate of interest applicable at the time of such member'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
[1959 c 613 §26]

239.254 Partial waiver of benefits to qualify for other governmental pension. (1) If receipt in full by a teacher of a retirement allowance under ORS 239 002 to 239 263 would prevent such teacher from receiving in full any other governmental pension to which he is entitled such teacher may waive for a calendar year sufficient monthly payments, or portions thereof, of retirement allowance under ORS 239 002 to 239 263 to permit him to receive in full the other governmental pension. The waiver shall be made in writing and filed with the board of trustees of the association, and the school 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 of 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 trustees of the association and the school board. If a teacher dies during the period of time in which his waiver is in effect, the waiver is considered revoked on the date of such death
[1961 c 574 §2]

Note: ORS 239 254 was added to and made a part of ORS 239 002 to 239 263 but was not added to and made a part of ORS 239 201 to 239 263

239.255 Transfer of account balance from another system. Whenever a teacher establishes membership in the Teachers' Retirement System, he may within six months after so establishing membership, or within six months after July 1, 1959, whichever is later, deposit in a lump sum to his account under the Teachers' Retirement System the account balance accumulated to his credit as a member of another public employes' 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 239.131 to 239 137 and 239.201 to 239 263 relating to teachers' contributions to the retirement fund, except that no part of such lump-sum deposit or interest thereon or the amount of any annuity provided therefrom shall be matched by the school district
[1959 c 613 §10]

239.257 Transfer of account balance to another system. Whenever a teacher who is past his earliest service retirement age separates from the service of the school district and thereafter, but before applying to the board of trustees of the association 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 of trustees, upon the written request of the teacher and if in conformance with the provisions of law governing the other public employes' retirement system, may transfer the account balance of the teacher under the Teachers' Retirement System to the other public employes' retirement system. Such transfer shall cancel the right of the teacher to claim any future benefits under the Teachers' Retirement System for service rendered to the school district prior to the date of the transfer.
[1959 c 613 §19]

239.259 Payment of credits or accrued benefits on death of member. (1) In the event that a person who is a member of the Teachers' Retirement 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, payments 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 of trustees of the association, 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 of trustees, the association and the Teachers' Retirement 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 trustees of the association of the affidavit.

(4) Nothing in ORS 239.131 to 239.137 and 239.201 to 239.263 shall be construed to prevent the association 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.
[1959 c 613 §28]

239.260 Death benefit. (1) In addition to any other benefits under ORS 239.002 to 239.263, a death benefit, provided by contributions of the school district under ORS 239 205, shall be paid to the beneficiaries referred to in subsection (2) of this section, if any, of a teacher who is a member of the system and who is employed in the service of the school district on the date of his death, if such teacher:

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

(b) Is killed in line of duty in the service of the school district; or

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

(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 salary earned by the deceased member during the 12 months during which he received full salary immediately preceding his death 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 earned by the deceased member during the 12 months during which he received full salary immediately preceding his death 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.

(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
[1961 c 574 §5]

Note: ORS 239 260 was added to and made a part of ORS 239 002 to 239 263 but was not added to and made a part of ORS 239 201 to 239 263

239.261 Rights and moneys exempt from taxes, execution and process and 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 ORS 239.131 to 239.137 and 239.201 to 239.263, and the money in the various funds administered by the association under ORS 239.131 to 239.137 and 239.201 to 239.263, 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.
[1959 c 613 §35]

239.263 Rights and benefits under repealed law. (1) The provisions of section 44 of chapter 613, Oregon Laws 1959, repealing certain sections contained in ORS chapter 239 prior to July 1, 1959, shall not affect the annuity and pension rights of any member of the association who retired on account of age or disability prior to July 1, 1959.

(2) Subject to the provisions of subsections (3) and (4) of this section, after July 1, 1959, there shall be paid to each member of the association, who retired on account of age or disability prior to July 1, 1959, for so long as said member lives and such retirement continues, the same annuity and pension benefits being paid to said member on July 1, 1959.

(3) The school board may classify the members of the association described in subsections (1) and (2) of this section according to the source and amounts of retirement benefits available to them under the Teachers' Retirement System and under the Federal Social Security Act and, whenever it finds that inequities exist with respect to the members of any class in the amounts of retirement benefits provided them by law, may increase their pensions up to the maximum amount specified in subsection (4) of this section.

(4) Subject to the limitation that the total monthly pension payable by the school district to any member who retired before 1940 shall not exceed $102.50 and that such pension so payable to any other member shall not exceed $95, the school board may increase the pensions of the respective classes referred to in subsection (3) of this section at different times and in different amounts as it shall deem appropriate to eliminate the inequities in an orderly manner consistent with the financial ability of the school district to pay increased pensions.
[1959 c 613 §43, 1961 c 514 §1; subsections (3) and (4) enacted as 1961 c 514 §3]

239.265 to 239.300 [Reserved for expansion]
239.302 [Repealed by 1959 c 613 §44]
239.304 [Repealed by 1959 c 613 §44]
239.306 [Repealed by 1959 c 613 §44]
239.308 [Repealed by 1959 c 613 §44]
239.310 [Repealed by 1959 c 613 §44]
239.312 [Repealed by 1959 c 613 §44]
239.314 [Repealed by 1959 c 613 §44]
239.316 [Repealed by 1959 c 613 §44]
239.318 [Repealed by 1959 c 613 §44]
239.320 [Repealed by 1959 c 613 §44]
239.322 [Repealed by 1959 c 613 §44]
239.324 [Repealed by 1959 c 613 §44]
239.326 [Repealed by 1959 c 613 §44]
239.328 [Repealed by 1959 c.613 §44]
239.330 [Repealed by 1959 c 613 §44]
239.332 [Repealed by 1959 c 613 §44]
239.334 [Repealed by 1959 c 613 §44]
239 336 [Repealed by 1959 c 613 §44]
239.338 [Repealed by 1959 c 613 §44]
239.340 [Repealed by 1959 c 613 §44]
239.342 [Repealed by 1959 c 613 §44]
239.344 [Repealed by 1959 c 613 §44]
239.346 [Repealed by 1959 c 613 §44]
239.348 [Repealed by 1959 c 613 §44]
239.350 [Repealed by 1959 c.613 §44]
239.352 [Repealed by 1959 c 613 §44]
239.354 [Repealed by 1959 c 613 §44]
239.356 [Repealed by 1959 c 613 §44]
239.358 [Repealed by 1959 c.613 §44]
239.360 [Repealed by 1959 c 613 §44]
239.362 [Amended by 1959 c 400 §3; repealed by 1959 c 613 §44]
239.364 [Repealed by 1959 c 613 §44]
239.366 to 239.400 [Reserved for expansion]
239.402 [Repealed by 1959 c 613 §44]
239.404 [Repealed by 1959 c 613 §44]
239.406 [Repealed by 1959 c 613 §44]
239.408 [Repealed by 1959 c 613 §44]
239.410 [Repealed by 1959 c 613 §44]
239.412 [Repealed by 1959 c 613 §44]
239.414 [Repealed by 1959 c 613 §44]
239.416 [Repealed by 1959 c 613 §44]
239.418 [Repealed by 1959 c 613 §44]
239.420 [Repealed by 1959 c 613 §44]
239.422 [Repealed by 1959 c 613 §44]
239.424 [Repealed by 1959 c 613 §44]
239.426 [Repealed by 1959 c 613 §44]
239.428 [Repealed by 1959 c 613 §44]
239.430 [Repealed by 1959 c.613 §44]
239.432 [Repealed by 1959 c 613 §44]
239.434 [Repealed by 1959 c 613 §44]
239.436 [Repealed by 1959 c 613 §44]
239.438 [Repealed by 1959 c 613 §44]
239.440 to 239.455 [Reserved for expansion]
239.460 [1953 c 301 §1, repealed by 1959 c 613 §44]
239.465 [1953 c 301 §2, repealed by 1959 c 613 §44]
239.470 to 239.480 [Reserved for expansion]
239.482 [1955 c 667 §2; repealed by 1959 c.613 §44]
239.484 [1955 c 667 §3, repealed by 1959 c 613 §44]

239.486 [1955 c 667 §4; repealed by 1959 c 613 §44]

239.488 [1955 c 667 §5, repealed by 1959 c 613 §44]

239.490 to 239.500 [Reserved for expansion]

239.502 [Repealed by 1959 c 613 §44]

239.504 [Repealed by 1959 c.613 §44]

239.506 to 239.700 [Reserved for expansion]

COVERAGE OF EMPLOYES UNDER FEDERAL SOCIAL SECURITY ACT

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

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

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

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

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

239.730 Definitions for ORS 239.730 to 239.755. As used in ORS 239.730 to 239.755, unless the context requires otherwise, "agreement" means an agreement entered into pursuant to ORS 239.730 to 239.755 between the State of Oregon and the Secretary of Health, Education and Welfare of the United States, or his designated agent or successor, and the modification of the existing agreement between the State of Oregon and the Secretary of Health, Education and Welfare for Old Age and Survivors Insurance coverage of employes of the State of Oregon and of the political subdivisions of the state. [1955 c 733 §1]

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

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

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

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

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

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

(5) For the purposes of the referendum, an employe of the school district shall be deemed an "eligible employe" if, at the time such referendum is held, he is in a position covered by such retirement system and is a member of such retirement system and if he is in such position at the time notice of the referendum is given as required in subsection (3) of this section; except that an employe of the school district shall not be deemed an eligible employe if, at the time

the referendum is held, he is in a position to which an agreement entered into pursuant to ORS 237.414 applies, or he was in a position excluded by or pursuant to title 2, section 218, subsection (d) (5) of the Federal Social Security Act
[1955 c 733 §3]

239.745 Authority to enter into agreement extending federal social security benefits to employes. If a referendum is held as provided in ORS 239.735, and if a majority of the eligible employes of the school district vote in favor of including service in positions covered by the retirement system under an agreement entered into pursuant to title 2, section 218, subsections (c) and (d) of the Federal Social Security Act, then the Governor of the State of Oregon shall certify to the Secretary of Health, Education and Welfare of the United States that all the conditions as specified in title 2, section 218, subsection (d) (3) of the Federal Social Security Act have been met, and, thereupon the board of directors of the school district may make application to the Public Employes' Retirement Board for inclusion of such eligible employes in an agreement. No agreement negotiated pursuant to this section shall be executed or be effective unless and until the agreement is approved by the board of directors of the school district.
[1955 c 733 §4]

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

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

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

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

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

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

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

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

(6) Upon the approval of the agreement by the board of directors of the school district, the agreement shall be executed in behalf of the State of Oregon and of the board of directors of the school district by the Governor, or by an agency or individual designated by the Governor so to act
[1955 c 733 §6]

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

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

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

(3) All employer and employe contributions collected and withheld by the school district as in this section provided and all other moneys received or collected by the school district under ORS 239.730 to 239.755 shall be remitted by the school district to the Public Employes' Retirement Board created by ORS 237.251, and all such moneys so remitted shall be deposited by the Public Employes' Retirement Board as provided in ORS 237.490. All moneys so deposited hereby are appropriated for the purposes of ORS 239.730 to 239.755. All claims against the moneys so deposited shall be certified and audited, and all disbursements therefrom shall be made as specified in ORS 237.490. The moneys so remitted and deposited shall be disbursed for the purpose of paying the amounts required to be paid to the Secretary of the Treasury of the United States pursuant to the agreement entered into under ORS 239.730 to 239.755 and for the purpose of paying the expenses incurred in the administration of ORS 239.730 to 239.755 as authorized in ORS 239.730 to 239.755.

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

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

(6) The agreement authorized by ORS 239.730 to 239.755 shall be subject to all of the provisions of ORS 237.410 to 237.520, to the extent that the provisions of such sections are applicable to the agreement.
[1955 c 733 §7]

239.760 to 239.980 [Reserved for expansion]

239.990 [Repealed by 1959 c 613 §44]

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