

# Chapter 243

## 1971 REPLACEMENT PART

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### LIFE INSURANCE FOR POLICE AND FIREMEN

**243.005 Definitions for ORS 243.005 to 243.045.** As used in ORS 243.005 to 243.045:

(1) "Fireman" means persons employed by a city, county or district whose duties involve fire fighting and includes a volunteer fire fighter whose position normally requires less than 600 hours of service per year.

(2) "Police officer" includes police chiefs and policemen of a city who are classified as police officers by the council or other governing body of the city; sheriffs and those deputy sheriffs whose duties, as classified by the county governing body are the regular duties of police officers; employes of districts, whose duties, as classified by the governing body of the district are the regular duties of police officers; employes of the Department of State Police who are classified as police officers by the Superintendent of State Police; and employes of the Oregon State Penitentiary and of the Oregon State Correctional Institution whose duties, as assigned by the superintendent, include the custody of persons committed to the custody of or transferred to the penitentiary or correctional institution; but "police officer" does not include volunteer or reserve police officers or persons considered by the respective governing bodies to be civil deputies or clerical personnel.

(3) "Public employer" means a city, a county or the state, or one of its agencies or political subdivisions that employs police officers or firemen.

[1971 c.692 §6]

**243.010** [Amended by 1955 c.203 §1; 1959 c.162 §1; 1969 c.597 §141; repealed by 1971 c.692 §14]

**243.015 Group life insurance for police and firemen.** On or before July 1, 1973, the Department of General Services shall enter into a contract with an insurance company licensed to do business in this state to purchase group insurance on the lives of all police officers and firemen in the service of public employers.

[1971 c.692 §7]

**243.020** [Amended by 1955 c.203 §2; 1955 c.503 §1; 1957 c.204 §1; 1959 c.162 §2; repealed by 1971 c.692 §14]

**243.025 Issuance of \$10,000 life insurance certificate.** When the Department of General Services has negotiated the contract under ORS 243.015, but not later than July 1,

1973, every police officer and fireman in the service of a public employer shall be issued, pursuant to the contract provided for in ORS 243.015, a group term life insurance certificate in the face amount of \$10,000 on his life, covering death caused by injury sustained during working hours as a police officer or fireman or death resulting from such an injury within 365 days. The insurance certificate shall set forth the names of any beneficiaries whom the insured may designate.

[1971 c.692 §8]

**243.030** [Amended by 1955 c.203 §3; repealed by 1955 c.503 §2]

**243.035 Premiums and administrative costs to be budgeted and paid by public employers.** (1) The premiums and administrative costs incurred by the Department of General Services for the insurance provided for in ORS 243.005 to 243.045 shall be paid by the affected public employers and shall not come from funds of the Public Employees' Retirement System.

(2) Every public employer shall include in its budget amounts sufficient to pay the annual premiums accruing on the policies of insurance issued pursuant to ORS 243.005 to 243.045, and amounts sufficient to reimburse the Department of General Services for its administrative expenses incurred under ORS 243.005 to 243.045.

[Subsection (1) enacted as 1971 c.692 §9; subsection (2) enacted as 1971 c.692 §10]

**243.040** [Amended by 1955 c.203 §4; 1959 c.162 §3; repealed by 1971 c.692 §14]

**243.045 Police and firemen considered common group for certain purposes.** Notwithstanding ORS 743.303, police officers and firemen are considered to be associated in a common group formed for purposes other than the obtaining of insurance and are eligible for a policy of group life insurance to be available in the manner provided in ORS 243.005 to 243.045.

[1971 c.692 §11]

**243.050** [Amended by 1955 c.203 §5; 1959 c.162 §4; 1969 c.502 §6; repealed by 1971 c.692 §14]

**243.055 Exemption from requirements of ORS 243.005 to 243.045 for certain public employers.** Notwithstanding ORS 243.005 to 243.045, if a public employer provides benefits equal to or better than the insurance required under ORS 243.025, as determined by the Insurance Commissioner, the public employer is exempt from the requirements of ORS 243.005 to 243.045 for so long as such benefits

continue to be equal or better than the insurance required, as determined by the Insurance Commissioner.

[1971 c.692 §12]

**243.060** [Amended by 1955 c.203 §6; 1957 c.204 §2; 1959 c.162 §5; 1969 c.502 §7; repealed by 1971 c.692 §14]

**243.070** [Repealed by 1971 c.692 §14]

### HEALTH BENEFIT PLANS

**243.105 Definitions for ORS 243.105 to 243.205.** As used in ORS 243.105 to 243.205, unless the context requires otherwise:

(1) "State agency" means every state officer, board, commission, department or other activity of state government.

(2) "Eligible employe" means an officer or employe of a state agency who elects to participate in one of the group benefit plans described in ORS 243.135, including state officials and officers and employes in the exempt, unclassified and classified service, but not including individuals:

(a) Engaged as independent contractors;

(b) Whose periods of employment in emergency work are on an intermittent or irregular basis, or who are employed on less than a half-time basis;

(c) Appointed under ORS 240.380 or 240.385;

(d) Provided sheltered employment or made-work by the state in an employment or industries program maintained for the benefit of such individuals; or

(e) Provided student health care services in conjunction with their enrollment as students at the state institutions of higher education.

(3) "Administrator" means the Administrator of the Personnel Division.

(4) "Health benefit plan" means a contract for group medical, surgical, hospital or any other remedial care recognized by state law and related services and supplies and shall include comparable benefits for employes who rely on spiritual means of healing.

(5) "Premium" means the monthly or other periodic charge for a benefit plan.

(6) "Payroll disbursing officer" means the state officer or official authorized to disburse moneys in payment of salaries and wages of employes of a state agency.

(7) "Carrier" means an insurance company or health care service contractor holding

a valid certificate of authority from the Insurance Commissioner, or two or more companies or contractors acting together pursuant to a joint venture, partnership or other joint means of operation.

(8) "Family member" means an eligible employe's spouse and any unmarried child or stepchild within age limits and other conditions imposed by the board with regard to unmarried children or stepchildren.

(9) "Board" means the State Employes' Benefit Board.

[1971 c.527 §1]

**243.110** [1955 c.313 §1; 1959 c.540 §1; 1963 c.313 §1; repealed by 1967 c.627 §12]

**243.115 State Employes' Benefit Board; membership; chairman.** (1) There is hereby created in the Personnel Division of the Executive Department, a State Employes' Benefit Board to be composed as follows:

(a) The Governor or his designee;

(b) The Director of the Department of General Services;

(c) The Administrator of the Personnel Division of the Executive Department; and

(d) Four persons representing state employes, who shall be appointed by the Governor.

(2) In addition, one member of the Senate, appointed by the President of the Senate, and one member of the House of Representatives, appointed by the Speaker of the House, shall serve as advisory members without vote.

(3) The Administrator of the Personnel Division of the Executive Department shall serve as chairman of the board.

[1971 c.527 §2]

**243.120** [1963 c.331 §8; 1967 c.267 §1; repealed by 1967 c.627 §12]

**243.125 Powers and duties of board; compensation and expenses of members.** (1) The board shall prescribe rules for the conduct of its business. Members of the board shall receive no compensation for their services, but shall be paid for their necessary and actual expenses while on official business. The board shall study all matters connected with the providing of adequate health care coverage for state employes on the best basis possible with relation both to the welfare of the employes and to the state. The board shall design benefits, devise specifications, analyze carrier responses to advertisements for bids and decide on the award of contracts. Contracts shall be signed by the chairman on behalf of the board.

(2) Subject to ORS chapter 183, the board may make rules not inconsistent with ORS 243.105 to 243.205, 243.215 and 292.051 to determine the terms and conditions of eligible employe participation and coverage.

(3) The board shall prepare specifications, invite bids and do acts necessary to award contracts for health benefit plan coverage of eligible employes for the two-year period commencing on July 1 of such odd-numbered year.

(4) The board may retain consultants when it determines the necessity and shall, subject to the State Merit System Law, employ such personnel as are required to perform the functions of the board.

[1971 c.527 §3]

**243.135 Board to contract for health benefit plans for public employes; terms and conditions.** (1) The board shall contract for the following four types of health benefit plans:

(a) One type of plan that provides basic benefits as its primary feature.

(b) One type of plan that provides major medical benefits as its primary feature.

(c) One type of plan that provides basic benefits and major medical insurance.

(d) One type of plan that provides group hospital-medical-surgical benefits through a comprehensive group practice plan in its service area.

(2) The board may approve more than one carrier for each type of plan but the number of carriers shall be held to a minimum number consistent with adequate service to eligible employes and their family members. However, the board shall not approve more than one comprehensive group practice plan in any given service area.

(3) Each health benefit plan shall provide options under which an eligible employe may arrange coverage for his family members.

(4) Payroll deductions for such costs as are not payable by the state may be made upon receipt of a signed authorization from the employe indicating his election to participate in the plan or plans selected and the deduction of a certain sum from his pay.

(5) In developing any health benefit plan described in subsection (1) of this section, the board may provide an option of additional coverage for eligible employes and their family members at an additional cost or premium.

(6) Transfer of enrollment from one plan to another shall be open to all eligible em-

ployes and their family members under rules adopted by the board. Because of the special problems that may arise in individual instances under comprehensive group practice plan coverage involving acceptable physician-patient relations between a particular panel of physicians and particular eligible employes and their family members, the board shall provide a procedure under which any eligible employe may apply at any time to substitute a health service benefit plan for participation in a comprehensive group practice benefit plan.

[1971 c.527 §4]

**243.145 Board authority with respect to health benefit plans; termination of participation of state agency.** (1) The board shall have authority to employ whatever means are reasonably necessary to carry out the purposes of ORS 243.105 to 243.205, 243.215 and 292.051. Such authority shall include but is not limited to authority to seek clarification, amendment, modification, suspension or termination of any agreement or contract which in the board's judgment requires such action.

(2) Upon providing specific notice in writing to the carrier, employe organization, Executive Department and affected, eligible employes, and after affording opportunity for a public hearing upon the issues which may be involved, the board may enter an order withdrawing approval of any health benefit plan. Thirty days after entry of the order, the board shall terminate all withholding authorizations of eligible employes and terminate all state participation in the plan.

(3) The board by order may terminate the participation of any state agency if within three months the state agency fails to perform any action required by ORS 243.105 to 243.205, 243.215 and 292.051 or by board rule.

[1971 c.527 §5]

**243.155 Board may contract without state participation for additional benefit plans to be provided at expense of participating employes.** (1) The board may contract with carriers to provide, at the expense of participating employes and without state participation, for coverage, insurance or other benefit based on life, supplemental medical, dental and accidental death or disability insurance plans.

(2) If on or after September 9, 1971, any state agency contracts for any of the benefits

described in subsection (1) of this section on behalf of any state employes, the administrative expenses thereof shall be paid by assessment of the participating employes. Such contracts are subject to approval of the board before they become operative. The board may withdraw approval for any such benefit in the same manner as it withdraws approval under ORS 243.145.

[1971 c.527 §6]

**243.165 State Employes' Benefit Account; continuing appropriation for account.**

(1) There hereby is created in the General Fund an account to be known as the State Employes' Benefit Account, the balances of which are continuously appropriated to cover administrative expenses incurred in connection with the administration of ORS 243.105 to 243.205, 243.215 and 292.051.

(2) There hereby is appropriated to the State Employes' Benefit Account all refunds and dividends from any carrier or contractor because of any agreement or contract entered into between the carrier and the board and, subject to ORS 243.185, an amount not to exceed two percent of the monthly state and employe contributions for any benefit available under ORS 243.105 to 243.205, 243.215 and 292.051.

[1971 c.527 §7]

**243.175 Monthly contribution of participating employe; state contribution.** (1) The monthly contribution of each eligible employe for health benefit plan coverage described in subsection (1) of ORS 243.135 shall be the total cost per month of the benefit coverage afforded him under the plan or plans, for which he exercises his option, including the administrative expenses therefor, less the portion thereof contributed by the state.

(2) The state contribution shall be the amount necessary to pay the cost of the health benefit plan or plans, including the cost of enrollment of all family members and the eligible employes, including the administrative expenses therefor, or \$10 per month per eligible employe, whichever is the lesser.

[1971 c.527 §8]

**243.185 Transfer of moneys from General Fund for payment of costs of health benefit plans.** Subject to legislative approval of budgetary authorization for operation of the board and its administration of the health benefit plans and other duties under ORS 243.105 to 243.205, 243.215 and 292.051, an amount not to exceed two percent of the

state and the employe contributions, as described in ORS 243.155 and 243.175, shall be forwarded by each payroll disbursing officer to the board and deposited by it in the State Treasury to the credit of the State Employes' Benefit Account to meet administrative and other costs authorized by ORS 243.105 to 243.205, 243.215 and 292.051. However, no such assessment shall be required for any month in which the balance in the account exceeds five percent of the monthly total of state and employe contributions.

[1971 c.527 §9]

**243.195 Salary deduction for participating employe's monthly payment for health benefit plan; dispersal of moneys to benefit plan contractor.** Upon receipt by him of the request in writing of an eligible or participating employe so to do, the payroll disbursing officer may deduct from the salary or wages of such employe the amount of money indicated in such request for payment of the applicable amount set forth in contracts made by such employes or in their behalf for benefits under ORS 243.105 to 243.205, 243.215 and 292.051. The payroll disbursing officer may disburse funds in payment of premiums to the carrier or health service benefit plan contractor.

[1971 c.527 §10]

**243.205 Reports.** The payroll disbursing officer shall submit reports to the State Employes' Benefit Board regarding health care coverage for eligible or participating employes as the board considers desirable.

[1971 c.527 §11]

**243.215 Certain eligible employes permitted to receive state contributions for health benefit plans of their choice.** Any eligible employe unable to participate in one or more of the plans described in subsection (1) of ORS 243.135 solely because he is assigned to perform duties outside the state may be eligible to receive the monthly state contribution, less administrative expenses, as payment of all or part of the cost of a health benefit plan of his choice, subject to the approval of the board and such rules as the board may adopt.

[1971 c.527 §13]

## DEFENSE OF PUBLIC EMPLOYEES

**243.510 Attorney General as counsel in defense of state officer or employe.** Subject to the provisions of ORS 243.520 and

243.530, the Attorney General shall act as counsel for the defendant in any civil action, suit or proceeding brought against any state officer or employe in his official or individual capacity on account of:

(1) Any action taken, work done or omission in his official capacity or in the course of his employment.

(2) Any injuries to persons or property resulting from the dangerous or defective condition of any public property.

(3) The dangerous or defective condition of any public property alleged to be the result of the negligence or carelessness of the officer or employe.

(4) The negligence or carelessness of the officer or employe occurring in the course of his official duties or employment.  
[1955 c.368 §1]

**243.520 When Attorney General required to defend.** (1) If any civil action, suit or proceeding listed in ORS 243.510 is brought against any state officer or employe, the officer or employe may file a written request for counsel with the Attorney General.

(2) If the Attorney General upon investigation, after receipt of the request, finds that the officer or employe was acting in the course of his official capacity, duties or employment in good faith and without malice, the Attorney General shall appear and defend the officer or employe; provided, however, the Attorney General shall not appear or act as counsel for any officer or employe in any action or cause of action with respect to which provision has been made for legal counsel and representation for such officer or employe under the terms of any policy of insurance.  
[1955 c.368 §2]

**243.530 Certificate of agency required in action concerning motor vehicle.** If the request filed under ORS 243.520 relates to a civil action, suit or proceeding concerning a motor vehicle, the request shall be accompanied by a certificate from the agency by which the officer or employe is employed certifying that use of the motor vehicle for state purposes was duly authorized at the time and place the event complained of occurred.

[1955 c.368 §3]

**243.540 Payment of expense of defense.**

(1) All expenses, including court costs, disbursements and compensation of attorneys,

in accordance with minimum fees established by the Oregon State Bar but not including the amount of any judgment, involved in the defense under ORS 243.510 to 243.540, of any civil action, suit or proceeding against a state officer or employe, shall be paid by the agency by which the state officer or employe was employed at the time the event complained of occurred.

(2) If after final adjudication it is found that the officer or employe acted in bad faith or with malice and was not acting in the course of his official duties or employment, the officer or employe shall reimburse the agency for any amount paid out by it under the provisions of subsection (1) of this section, and such amount shall constitute a debt due the State of Oregon, and may be collected together with interests, costs and disbursements by appropriate judicial proceedings.

[1955 c.368 §4]

**243.610 Public body providing for defense of public officer or employe.** Any county, city, town, district, board or other public body may, at its own expense, provide a defense for the defendant in any civil action, suit or proceeding brought against any officer or employe thereof in his official or individual capacity on account of:

(1) Any action taken, work done or omission in his official capacity or in the course of his employment.

(2) Any injuries to persons or property resulting from the dangerous or defective condition of any public property.

(3) The dangerous or defective condition of any public property alleged to be the result of the negligence or carelessness of the officer or employe.

(4) The negligence or carelessness of the officer or employe occurring in the course of his official duties or employment.

[1955 c.382 §1]

**243.620 Payment of expense of defense.**

(1) In providing said defense, the county, city, town, district, board or other public body may, but is not obliged to, pay all expenses involved therein, or any part thereof, including court costs, disbursements, compensation of attorneys and the amount of any judgment. This subsection shall not be construed to deprive the county, city, town, district, board or other public body of its governmental immunity.

(2) If, after final adjudication, it is found, after appropriate judicial proceeding, that the officer or employe acted in bad faith or with malice or was not acting in the course of his official duties or employment, the officer or employe shall reimburse the county, city, town, district, board or other public body for any amount paid out by it under the provisions of ORS 243.610 and this section, and such amount shall constitute a debt due such county, city, town, district, board or other public body, and may be collected, together with interest, costs and disbursements.

[1955 c.382 §2; 1961 c.507 §1]

### COLLECTIVE BARGAINING

**243.710** [1963 c.579 §2; repealed by 1969 c.671 §1 (243.711 enacted in lieu of 243.710)]

**243.711 Definitions for ORS 243.711 to 243.760 and 243.785 to 243.795.** As used in ORS 243.711 to 243.760 and 243.785 to 243.795, unless the context requires otherwise:

(1) "Collective bargaining" means the performance of the mutual obligation of a public employer and the representative of its employes to meet at reasonable times and confer in good faith with respect to employment relations, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party. However, this obligation does not compel either party to agree to a proposal or require the making of a concession.

(2) "Employment relations" includes, but is not limited to, matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment.

(3) "Labor organization" means any organization which includes public employes and which has as one of its primary purposes representing such employes in their employment relations with the public employer.

(4) "Public employe" means an employe of a public employer.

(5) "Public employer" means the state and any of its agencies and institutions, and includes a city, county or other political subdivision that has requested the Public Employe Relations Board under ORS 243.751 to make its services and facilities available for the purpose of establishing public employe representation.

[1969 c.671 §2 (enacted in lieu of 243.710)]

**243.720 Purpose.** It is the purpose of ORS 243.711 to 243.760 and 243.785 to 243.795 to promote the improvement of the relationship between public employers and their employes by providing a uniform basis for recognizing the right of public employes to join labor organizations of their own choosing and to be represented by such organizations in matters concerning their employment relations with public employers.

[1963 c.579 §1]

**243.730 Right of public employes to join labor organizations.** (1) Public employes have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining with their public employer on matters concerning employment relations.

(2) Public employers shall not interfere with, intimidate, restrain, coerce or discriminate against public employes because of their exercise of rights under subsection (1) of this section.

[1963 c.579 §3]

**243.735 Certified labor organizations as exclusive representative of public employe groups.** (1) A labor organization certified by the Public Employe Relations Board is the exclusive representative of the employes of a public employer for the purposes of collective bargaining with respect to employment relations. However, an individual employe or group of employes at any time may present grievances to their employer and have such grievances adjusted, without the intervention of the labor organization, if:

(a) The adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect; and

(b) The labor organization has been given opportunity to be present at the adjustment.

(2) Nothing in this section prevents a labor organization from being the exclusive representative of the employes of a public employer in a jurisdiction or unit that has not been established or in which rules setting procedures for the selection and certification of the collective bargaining representative for the employes have not been adopted.

[1969 c.671 §5]

**243.740 Right of public employer to enter into collective bargaining agreement.** Public employers shall have the right to enter into collective bargaining agreements

with labor organizations on matters concerning employment relations.  
[1963 c.579 §4]

**243.745 Collective bargaining disputes; investigation by Public Employe Relations Board required.** If a public employer or a labor organization representing public employes complains that the mutual obligation to bargain collectively in good faith is not being observed by a party so obligated or that a party has failed to comply with the terms of an agreement, the Public Employe Relations Board shall cause an investigation to be carried out to determine whether any party to the dispute has refused or failed to bargain collectively or has failed to comply with the terms of an agreement. The board shall make a finding in accordance with the investigation, and may hold hearings and take testimony to assist in making its findings. The findings of the board under this section, which are not subject to appeal, shall be published as the board determines to be appropriate.  
[1969 c.671 §6]

**243.750** [1963 c.579 §5; repealed by 1969 c.671 §3 (243.751 enacted in lieu of 243.750)]

**243.751 Use of Public Employe Relations Board; use of State Conciliation Service.**

(1) Upon the request of a public employer, or any city, county or other political subdivision, the Public Employe Relations Board shall make its services and facilities available for the purpose of establishing public employe representation. The services shall include, but not be limited to, holding public hearings and conducting secret ballot elections to determine bargaining unit and representation issues.

(2) When a public employer and a labor organization cannot agree on the terms for collective bargaining, or when a labor dispute arises between them, the Public Employe Relations Board may be called upon to aid in arriving at an agreement or to settle the dispute through conciliation, mediation, fact-finding or voluntary arbitration.

(3) Upon the request of a city, county or other political subdivision, the Public Employe Relations Board shall make its services and facilities available to aid in arriving at an agreement or to settle a dispute between such city, county or other political subdivision, and a labor organization.

(4) In providing the services of the Public Employe Relations Board under this section, the board may assign duties and responsibilities to the State Conciliation Service and the conciliator under ORS 662.435, and to ad hoc

committees of persons appointed by the board who are knowledgeable in labor relations.

(5) Except as provided in ORS 243.780, the board may by rule establish procedures governing the services of the State Conciliation Service under this section.  
[1969 c.671 §4 (enacted in lieu of 243.750)]

**243.760 Striking or recognizing picket line prohibited.** No public employe shall strike or recognize a picket line of a labor organization while in the performance of his official duties.  
[1963 c.579 §6]

**243.770 Application of provisions to teachers.** ORS 243.711 to 243.751 shall not apply to public school personnel except such personnel as may have entered into procedures specified therein prior to June 1, 1971.  
[1965 c.390 §5; 1971 c.582 §10]

**243.780 Selection and certification of bargaining representative for classified employes; rules of procedure; enforcement.** (1) Any board or commission which, pursuant to state law, administers a civil service system for public employes, shall establish, by rule, procedures for the selection and certification of the collective bargaining representative of the classified employes under such system. The Public Employe Relations Board by rule shall establish such procedures for classified employes under ORS chapter 240.

(2) The rules shall include, but not be limited to, provisions for the designation of the bargaining unit, to an election process for employe selection of the bargaining representative and to the specification of practices which will be prohibited as improper influences on that election process.

(3) Any board or commission which issues rules pursuant to this section may apply to and obtain from a circuit court of this state, court process in enforcement of such rules and against any practice found to be in violation of such rules.

[1965 c.543 §§2, 3, 4; 1969 c.80 §35b]

## FACT-FINDING

**243.785 Fact-finding by Public Employe Relations Board.** If the public employer and a labor organization after a reasonable period of negotiation are deadlocked with respect to a dispute existing between them arising out of the mutual obligation to bargain collectively or from the application or interpretation of a collective bargaining contract or agreement

existing between them, either or both may petition the Public Employe Relations Board in writing to initiate fact-finding as provided in ORS 243.785 to 243.795, in order to make recommendations for resolution of the existing deadlock. In lieu of a petition, the board on its own motion may initiate such fact-finding if it determines the existence of a deadlock as described in this section.

[1969 c.671 §7]

**243.787 Initiation of fact-finding; appointment of committee.** Initiation of fact-finding proceedings is discretionary with the Public Employe Relations Board. If the board decides to initiate fact-finding inquiry with respect to a particular dispute, it shall appoint a fact-finding committee consisting of three disinterested individuals knowledgeable in labor relations. The board shall furnish staff assistance to such committee.

[1969 c.671 §8]

**243.789 Committee use limited; vacancies.** The Public Employe Relations Board may not appoint more than one fact-finding committee with respect to the same dispute. However, this does not prevent the board from filling vacancies that may occur in the membership of such a committee.

[1969 c.671 §11]

**243.791 Committee compensation; expenses.** Members of a fact-finding committee appointed under ORS 243.785 to 243.795 shall receive reasonable reimbursement for their services. In addition, subject to applicable law regulating travel and other expenses of state officers and employes, the members shall receive their actual and necessary travel and other expenses incurred in the performance of their official duties.

[1969 c.671 §12]

**243.793 Hearings; subpoena; oaths; findings; quorum; mediation.** (1) The fact-finding committee promptly shall investigate the issues disputed by the parties involved in the controversy. The committee may hold hearings and take testimony. The Public Employe Relations Board on request of the committee may issue subpoenas, and any member of the committee may administer oaths to witnesses before the committee.

(2) On completion of its hearings and other investigations, the fact-finding committee shall make written findings of fact and recommendations for solution of the dispute and shall cause a copy of such findings and recommendations to be served on the parties.

The committee also shall submit a copy of its findings and recommendations to the board.

(3) A majority of the members of a fact-finding committee constitutes a quorum to transact business.

(4) Nothing in this section prohibits a fact-finding committee from attempting to mediate a dispute at any time prior to the submission of its findings and recommendations.

[1969 c.671 §9]

**243.795 Publication of committee recommendation.** The Public Employe Relations Board shall make public, in a manner it considers appropriate, the findings and recommendations of a fact-finding committee not later than the fifth day after such findings and recommendations were submitted to it by the committee, unless the parties before that time reach agreement on the matters in dispute.

[1969 c.671 §10]

#### TAX-SHELTERED ANNUITIES FOR EDUCATIONAL EMPLOYEES

**243.810 Definitions for ORS 243.810 to 243.830.** As used in ORS 243.810 to 243.830, unless the context requires otherwise:

(1) "Educational institution" means an educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(2) "Employer" means the State Board of Higher Education, any other state agency or a school district, employing an individual who performs services for an educational institution.

[1965 c.606 §1]

**243.820 Agreement for payment of annuity premium.** (1) In order to obtain the advantages of section 403(b) of title 26, United States Code, or any equivalent provision of federal law, an employer subject to ORS 243.810 to 243.830 may agree with an individual employed by it, who performs services for an educational institution, that:

(a) The employe's salary will be reduced monthly by a stated amount, or the employe will forego monthly a salary increase of a stated amount; and

(b) The employer will contribute monthly an amount equal to the stated amount determined under paragraph (a) of this subsection for such month, as premiums for an

annuity contract for such employe. The amount contributed by the employer shall not exceed the stated amount.

(2) Notwithstanding any other provision of law, pursuant to an agreement under subsection (1) of this section, the stated amounts shall be forwarded by the employer as annuity premiums to the company or association with which it has entered into an annuity contract for the benefit of such employe.

[1965 c.606 §2]

**243.830 Effect of agreement on retirement contributions and benefits.** An agreement executed pursuant to ORS 243.820 by an employe who is subject to ORS 237.001 to 237.315, 239.002 to 239.263 or a similar retirement program for public employes, in no way affects the contributions to be made or the benefits to be provided for such employe under ORS 237.001 to 237.315, 239.002 to 239.263 or other program. Reduction of salary or foregoing a salary increase by a stated amount under ORS 243.820 shall not be deemed a reduction in salary for the purpose of such contributions and benefits.

[1965 c.606 §3]

### HIGHER EDUCATION SUPPLEMENTAL RETIREMENT BENEFITS

**243.910 Definitions for ORS 243.910 to 243.940.** As used in ORS 243.910 to 243.940:

(1) "Board" means the State Board of Higher Education.

(2) "Employes" means the persons appointed or employed by or under the authority of the board who hold academic rank as determined by the board.

(3) "System" means the Public Employes' Retirement System established by ORS 237.005.

[1965 c.297 §1]

**243.920 Assisting employes to obtain supplemental benefits; employe contribution.**

(1) The board may, in its discretion, assist its employes who are members of the system and who elect to be so assisted by filing an election as provided in ORS 243.940, in the purchase of retirement benefits supplementing the benefits to which those employes are entitled under the system. For this purpose the board and its employes may enter into contracts with one or more life insurance or annuity companies.

(2) Each employe who elects to be assisted under subsection (1) of this section shall, as a condition to such election, either:

(a) Agree to contribute through payroll deductions toward the purchase of the supplementary retirement benefits a percentage of the annual salary of the employe in excess of \$4,800 equal to the percentage rate applicable to contributions made by the employe under the system, the amounts deducted from payrolls as employe contributions to be paid promptly by the board to the life insurance or annuity company in accordance with the terms of the applicable contract; or

(b) Agree either to a reduction in salary or to the foregoing of a salary increase in accordance with ORS 243.820, in an amount not less than the amount otherwise required to be contributed under paragraph (a) of this subsection.

[1965 c.297 §2(1), (2); 1969 c.626 §1]

**243.930 Board contributions; investment; purchase of benefits.** (1) If an employe assisted under subsection (1) of ORS 243.920 has made contributions to the Public Employes' Retirement Fund during each of five calendar years as provided in ORS 237.001 to 237.315, the board shall contribute an amount toward the purchase of the supplemental retirement benefits equal to the contributions toward the purchase made by the employe on his annual salary in excess of \$4,800. The amounts of those contributions by the board shall be paid promptly by the board to the life insurance or annuity company in accordance with the terms of the applicable contract.

(2) If an employe assisted under subsection (1) of ORS 243.920 has not made contributions to the Public Employes' Retirement Fund during each of five calendar years as provided in ORS 237.001 to 237.315, the board shall contribute an amount toward the purchase of the supplemental retirement benefits equal to that which it would contribute for current service under the system with respect to the annual salary in excess of \$4,800 of the employe if the employe contributed under the system on that part of his salary.

(3) The amounts of contributions by the board under subsection (2) of this section, at intervals designated by the Public Employes' Retirement Board, shall be paid into the Public Employes' Retirement Fund. The Public Employes' Retirement Board shall keep a separate account for those amounts

and prorated earnings thereof, and for investment purposes the moneys in the separate account shall be commingled with those of the Public Employees' Retirement Fund and shall be invested in the same manner as moneys of the Public Employees' Retirement Fund are invested.

(4) When an employe, with respect to whose annual salary in excess of \$4,800 the board has contributed under subsection (2) of this section, has made contributions to the Public Employees' Retirement Fund during each of five calendar years as provided in ORS 237.001 to 237.315, an amount equal to the contributions made under subsection (2) of ORS 243.920 shall be paid promptly to the life insurance or annuity company out of the separate account referred to in subsection (3) of this section, which hereby is appropriated for that purpose, for the purchase of additional supplemental retirement benefits for the employe. If the moneys in the separate account are not sufficient for that purpose, the amount of the deficiency shall be paid promptly by the board to the life insurance or annuity company for that purchase.

(5) If an employe is separated from the service of the board before he has made contributions to the Public Employees' Retirement Fund during each of five calendar years as provided in ORS 237.001 to 237.315, the amounts of contributions by the board paid into the Public Employees' Retirement Fund under subsection (3) of this section and prorated earnings thereof shall remain in the separate account referred to in subsection (3) of this section for the purpose described in subsection (4) of this section, and the employe is not entitled to any part thereof or any benefit derived therefrom.

[1965 c.297 §2 (3), (4); 1969 c.626 §2]

**243.940 Employee election; cancellation of election.** (1) Employes may elect to be assisted by the board under subsection (1) of ORS 243.920, or may cancel that election, only as provided in this section.

(2) An employe who is a member of the system before the board commences to assist its employes under subsection (1) of ORS 243.920 may elect to be so assisted by the board not later than one month before that commencement.

(3) An employe who becomes a member of the system after the board commences to assist its employes under subsection (1) of ORS 243.920 may elect to be so assisted by the board not later than one month before he becomes a member of the system.

(4) An employe who is a member of the system and who has not filed an election under subsection (2) or (3) of this section, or who has filed that election but thereafter canceled it, thereafter may elect to be assisted by the board under subsection (1) of ORS 243.920 only within the first 60 days of any calendar year commencing after the board commences to assist its employes under subsection (1) of ORS 243.920.

(5) An employe who has filed an election under subsection (2), (3) or (4) of this section may cancel that election only within the first 60 days of any calendar year commencing after the board commences to assist its employes under subsection (1) of ORS 243.920.

(6) An election or cancellation thereof under this section shall be filed in writing with the board. The board shall inform the Public Employees' Retirement Board in writing of all elections or cancellations so filed.

[1965 c.297 §3]

#### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1971.

Robert W. Lundy  
Legislative Counsel

#### CHAPTERS 244 AND 245

[Reserved for expansion]