Chapter 237

1979 REPLACEMENT PART

Public Employes' Retirement Generally

PUBLIC EMPLOYES' RETIREMENT SYSTEM

237.001 Short title
237.003 Definitions for ORS 237.001 to 237.315
237.005 Public Employes' Retirement System
237.011 Membership generally
237.013 Membership of certain district judges
237.015 Membership of employes of public transportation system
237.017 Community college employes' use of accumulated unused sick leave to increase benefits
237.019 Membership of certain legislative employes
237.021 Membership of persons retired from other system for disability
237.025 Membership of deputy district attorneys
237.027 Membership of employes of Vehicle Equipment Safety Commission
237.029 Membership of legislators
237.051 Integration of other retirement systems
237.060 Monthly retirement allowances to be adjusted to reflect fluctuations in cost of living; board to prescribe rate; adjustment amount limited
237.065 Account balance accumulated under another public employes' retirement system may be deposited to employe's account
237.071 Contributions of employes; rate and payment; additional units for police and fire fighters
237.073 Contributions and current service pension of certain higher education employes
237.081 Employer contributions for current and prior service; amount of prior service credit
237.085 Credit for service rendered before employer participated in system, when member's service interrupted for more than five years
237.091 Effect of service interruptions on membership
237.093 Credits for service in Armed Forces
237.095 Service credit and repayment of withdrawn contributions for certain legislative employes
237.097 Credit for service while on loan to Federal Government
237.101 Effect of transfer to other participating employer on accrued rights and credits
237.103 Effect of member acting as independent contractor for public employer
237.107 Prior contributions and service credit not affected by change to calendar year basis
237.109 Termination of membership
237.111 Separation prior to retirement; withdrawal of credits; reinstatement upon reemployment
237.113 Credit for service as judge
237.115 Transfer of employe's account balance to another public employes' retirement system
237.121 Voluntary retirement
237.125 Reemployment of members who have voluntarily retired
237.129 Compulsory retirement age
237.131 Employment of physicians beyond compulsory retirement age
237.133 Employment of persons beyond retirement age; mandatory retirement age
237.135 Employment of domestic or custodial employe beyond compulsory retirement age
237.139 Employment by State Board of Higher Education of persons beyond compulsory retirement age
237.143 Reemployment of retired employes
237.145 Option of legislators to receive certain benefits; employment of persons as legislative employes or state police officer beyond compulsory retirement age
237.147 Service retirement allowance at compulsory retirement age
237.149 Current service pension for certain employes
237.151 Option of certain separated or retired members to receive lump sum payment of benefits
237.153 Use of accumulated unused sick leave to increase benefits
237.155 Optional forms of service retirement allowance
237.157 Waiver of retirement allowance payments
237.165 Payment of credits or accrued benefits on death of member
237.167 Payment upon death of retired member who dies before making election of retirement benefits
237.169 Additional death benefit
237.171 Disability retirement allowance
237.181 Optional forms of disability retirement allowance
237.187 Minimum disability benefits; reduction
237.191 Medical examinations for applicants for disability retirement allowance
237.195 Procedure when disabled member is capable of resuming work
237.197 Variable annuity program; employe elections; investment of account; payment of benefits
237.199 Monthly service retirement allowances or monthly disability allowances increased in certain cases
237.200 Minimum service retirement allowance for certain employes
237.201 Rights and moneys exempt from taxes, execution and bankruptcy; assignment prohibited; exception
237.205 Employe retirement benefits payable to others under certain court decrees
237.251 Public Employes' Retirement Board; creation; general powers and duties
237.253 Board consideration of goals and objectives of system
237.255 Qualifications of board members; terms; compensation and expenses
237.259 Director and staff

237.263 Rules of board
237.271 Public Employes' Retirement Fund; disbursements; annual audit
237.275 Individual accounts in fund
237.277 Credits to individual accounts where earnings less than assumed interest rate
237.279 Contributions and interest not to be included in department budget
237.281 Reserve accounts in fund; amortizing gains and losses; report to legislature
237.285 Actuarial report
237.291 Administrative expenses of system
237.300 Applicability of ORS 237.301 to 237.315 to enforce certain provisions of ORS 237.001 to 237.291
237.301 State departments to remit contributions and furnish reports; proceedings on default
237.303 Procedure to require public agencies to pay obligations and to comply with retirement law
237.305 Political subdivisions to furnish reports and information; proceedings on default
237.311 Mandamus against defaulting employer; appeal
237.315 Procedure for board hearings
237.320 Board, on behalf of retired members, may contract for medical and hospital insurance

COVERAGE OF EMPLOYES UNDER FEDERAL SOCIAL SECURITY ACT

237.410 Definitions for ORS 237.420 to 237.520
237.411 Construction of ORS 237.412 to 237.418 as supplemental to ORS 237.420 to 237.520
237.412 Declaration of policy regarding federal social security protection for employes of state and political subdivisions
237.414 Extension of federal social security benefits to employes of state and certain political subdivisions
237.418 Authority of interstate agencies to extend federal social security benefits to their employes
237.420 Agreements to extend federal social security coverage to employes of public agencies not covered by ORS 237.414
237.430 Public agencies to be included in the agreement
237.440 Application by political subdivision for inclusion
237.450 Starting date for contributions
237.460 Withholding and remitting of employes' contributions
237.465 Employes required to contribute
237.470 Retirement board to promulgate regulations
237.480 Procedure against employer failing to comply with regulations
237.490 Deposit investment and payment of funds
237.500 Administrative expenses
237.510 Collection of delinquent contributions
237.515 Exclusion of contributions from biennial budget
237.520 Social Security Revolving Account appropriation

COVERAGE FOR POLICE OFFICERS AND FIRE FIGHTERS

237.610 Definitions for ORS 237.610 and 237.620
237.620 Membership of police officers and firemen
237.630 Service-connected disability retirement allowance; election to receive; conversion to annuity
237.640 Benefits payable to surviving spouse or child of police officer or fire fighter under system

LIQUIDATION OF PRE-1953 RETIREMENT SYSTEM

237.950 Pre-1953 Public Employes' Retirement System abolished
237.952 Public Employes' Retirement Board
237.956 Director and staff
237.960 Transfer of assets and administration of retirement fund
237.964 Collection of accrued liabilities
237.968 Continuation of retirement benefits of certain members
237.972 Continuation of abolished system with regard to certain members
237.976 Disposition of contributions made under abolished system
237.980 Rights and moneys exempt from taxation, execution and bankruptcy and are unassignable

CROSS REFERENCES

Airport police, subject to Public Employes' Retirement System, 237.003
City of Portland, retirement of employes, Ch 238
Cost of living adjustments, applicability to members of Teacher's Retirement System, 239.150, 239.212
Deferred compensation for state employes, effect, 243.460
Employe rights upon assumption of functions of other public bodies by metropolitan service district, 268 220
Forest protective association employes, credits upon transfer to State Forestry Department, 526.052
Geothermal heating district employes, 523.680
Insurance and employe retirement system for water authority employes, 450.947 to 450.977
Judges, Retirement Fund, 1.350
Multnomah County, retirement of employes, Ch. 238
People's utility districts, retirement plan, 261 305
Private retirement system, Ch. 653
Rural fire district employes, 478 325 to 478.370
School districts with over 10,000 children, retirement of employes, Ch. 239
Supplemental benefits for employes of educational institutions, Ch. 243
Teacher retirement Variable Annuity Account, establishing, 239.210
Teacher retirement, 239.002 to 239 263
Transferred public employe may continue membership, 236.620
Transportation system, public body to protect rights of employes when assuming operation, Const. Art. XI, §13
Unemployment insurance, retirement contributions not wages for purposes of 657 120
Weather modification districts, employe retirement, 558.350 to 558.365
Withdrawal by metropolitan service district employes, 268 225

237.003

Economic Opportunity Act of 1964, personnel as not in service of state, 190.230
Oregon State Bar members as such not "employes" under this chapter, 9.080
Supreme Court librarian not an "employe" under this chapter, 9 770

237.011

Employment as teacher, effect on membership, 239.209
Industries for the Blind Program, certain workers not covered, 346.190
Optional coverage of employes of Oregon State Bar, 9.080
Optional coverage of employes of Foreign Trade and Economic Development Committee, 171.815
Oregon Industries for the Blind, certain workers not covered, 346.190
Police officers and fire fighters employed by public employers, coverage provided, 237.610 to 237.640
Port of Portland, membership of employes restricted if in conflict with private pension plan, 778.110

237.027

Coverage of employes under social security, 237.410 to 237.520

237.101

Transfer of public employes, effect on membership, 236.620

237.113

District court judge who becomes circuit or Supreme Court judge may retain membership although ineligible under ORS 1.314, 1.360

237.201

Pensions exempted from execution and other process, 23.170

237.251

Board to appoint two members of Oregon Investment Council, 293.706

237.263

Administrative procedures and rules of state agencies, Ch. 183.310 to 183.500

237.271

Investment of fund, 293 701 to 293.776
Use of fund for financing construction of state office building, 276 110 to 276.137

237.410

Coverage of certain school district employes, 239.730 to 239.755
Coverage of Vehicle Equipment Safety Commission employes, 237 027
See 42 U.S C. 418 for section 218, title 2 of the federal Social Security Act

237.620

Scholarships, children of peace officers killed or disabled in line of duty, 348.270

237.980

Pensions exempted from execution and other process, 23.170

PUBLIC EMPLOYES' RETIREMENT SYSTEM

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

237.002 [Repealed by 1953 c.180 §18]

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

(2) The term "calendar year" means 12 calendar months commencing on January 1 and ending on December 31 following.

(3) The term "continuous service" means service not interrupted for more than five years, except that such continuous service shall be computed without regard to interruptions in the case of:

(a) Members who as of July 1, 1946, had reached the age of 75 years.

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

(c) An employe who was in the armed services on January 1, 1945, and returned to his employer within one year of the date of being otherwise than dishonorably discharged and remained in that employment until having established membership in the Public Employes' Retirement System.

(4) The term "employe" includes, in addition to employes, public officers, but does not include:

(a) Persons engaged as independent contractors.

(b) Seasonal, emergency or casual workers whose periods of employment with any public employer or public employers do not total 600 hours in any calendar year.

(c) Persons, other than workers in the Oregon Industries for the Blind under ORS 346.190, provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such persons.

(d) Persons employed and paid from federal funds received under the Comprehensive Employment and Training Act of 1973 (Public Law 93-203, 87 Stat. 839) and the Emergency Job and Unemployment Assistance Act of 1974 (Public Law 93-567) or any other federal program intended primarily to alleviate unemployment. However, any such person shall be considered an "employe" if he is not otherwise excluded by paragraphs (a) to (c) of this subsection and his public employer elects to have him so considered by an irrevocable written notice to the board.

(5) The term "fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 following.

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

(7) The term "public employer" means the state, one of its agencies, one of its political subdivisions or an agency created by two or more such political subdivisions to provide themselves governmental services. For purposes of ORS 237.001 to 237.315, such agency created by two or more political subdivisions is a governmental instrumentality and a legal entity with power to enter into contracts, hold property and sue and be sued.

(8) The term "salary" means the remuneration paid an employe in cash out of the funds of a public employer in return for his services to the employer, plus the monetary value, as determined by the Public Employes' Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and other advantages the employer furnishes him in return for his services.

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

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

(11) The term "police officer" includes:

(a) 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.

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

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

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

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

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

(g) Police officers appointed under ORS 276.021 or 276.023.

(h) Employes of the Port of Portland who are classified as Airport Police by the Board of Commissioners of the Port of Portland.

(i) Employes of the State Department of Agriculture who are classified as livestock police officers by the Director of Agriculture.

(j) Employes of the Board on Police Standards and Training who are classified by the board as other than secretarial or clerical personnel.

Investigators of the Criminal Justice Division of the Department of Justice.

(12) The term "final average salary" means the average salary per calendar year paid by a public employer to an employe who is a member of the system:

(a) In three of the last 10 calendar years of membership before he reaches the age of compulsory retirement, in which three years he was paid the highest salary;

(b) If the number of last calendar years of membership before he reaches the age of compulsory retirement is less than 10 and more than three, in three of those years, in which three years he was paid the highest salary; or

(c) If the number of last calendar years of membership before he reaches the age of compulsory retirement is three or less, in all of those last years.

(13) The term "fire fighter" does not include a volunteer fire fighter as defined in subsection (9) of this section, but does include:

(a) The State Fire Marshal and the chief deputy fire marshal and deputy state fire marshals appointed under ORS 476.040.

(b) Employes of the Fire Standards and Accreditation Board who are classified by the board as other than secretarial or clerical personnel. [1953 c.200 §2; 1955 c.131 §3; 1957 c.630 §5; 1959 c 333 §1; 1961 c.430 §1; 1963 c.608 §11; 1967 c.160 §1; 1967 c.622 §1; 1969 c.240 §1; 1971 c.738 §1; 1973 c.19 §1; 1974 s.s. c 28 §3; 1975 c.289 §1; 1977 c. 425 §1; 1979 c.446 §2; 1979 c.656 §5; 1979 c 741 §1]

237.004 [Repealed by 1953 c.180 §18]

237.005 Public Employes' Retirement System. A system of retirement and of benefits at retirement or death for employes of public employers hereby is established and shall be known as the Public Employes' Retirement System. Any similar system being operated by a public employer on April 8, 1953, may be integrated into this system as hereinafter provided. [1953 c.200 §3]

237.006 [Repealed by 1953 c.180 §18]

237.008 [Repealed by 1953 c.180 §18]

237.010 [Repealed by 1953 c.180 §18]

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

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

any time from July 1, 1929, to September 1, 1953, shall receive credit for prior service as provided by ORS 237.081 upon payment prior to December 1, 1953, to the board by such teacher of such contributions as would have been deducted from his salary from July 1, 1946, to the date of becoming a member of this system if he had become a member of this system on July 1, 1946, and the school district by which said teacher is employed shall transmit to the board, at such time as the board designates, such sums as the school district would have been required to transmit under the provisions of ORS 237.081 if such teacher had become a member of this system on July 1, 1946, and, upon such payments, such teacher shall be deemed to have been a member of the system established by this chapter for the purposes of ORS 237.001 to 237.315 continuously from July 1, 1946.

(b) Notwithstanding paragraph (a) of this subsection, an employe who is a member of, or eligible for membership in, an association established pursuant to ORS chapter 239 shall become a member of the system established by this chapter if he has separated, for any reason other than death or disability, from all service entitling him to membership in the system of the association, and he shall receive credit under ORS 237.001 to 237.315 for past service during the time he was a member of an association established pursuant to ORS chapter 239 upon payment to the board of all amounts in his individual account established pursuant to ORS chapter 239. Upon such payment by the employe the school board which previously employed him shall pay to the board such sums as may be determined by actuarial computation to fund the employe's past service credits. The school board may, with the consent of the board, make payment in three equal annual instalments.

(c) Notwithstanding paragraph (a) of this subsection, an employe who is a member of a retirement system established by a public employer prior to April 8, 1953, shall become a member of the system established by this chapter if he has separated from all service entitling him to membership in the retirement system established prior to April 8, 1953; but he shall receive no credit under ORS 237.001 to 237.315 for service during the time he is a member of, or eligible for membership in, the retirement system established prior to April 8, 1953. Furthermore, if the employe has been separated for disability from service entitling him to membership in a retirement system established prior to April 8, 1953, and is receiving a disability benefit under such retirement system at the time he becomes a member of the system established by this chapter he shall not receive any benefit under ORS 237.001 to 237.315 for such disability.

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

(3) A political subdivision (other than a school district) not participating in the retirement system established by chapter 401, Oregon Laws 1945, as amended, which employs one or more employes, each of whose position requires 600 hours of service per year, or an agency created by two or more political subdivisions to provide themselves governmental services, which employs one or more employes, each of whose position requires 600 hours of service per year, may, through its governing body, notify the board in writing, that it elects to include its employes in the system hereby established. Such public employer may request the board to make a study and estimate of the cost of including it and its eligible employes, other than volunteer fire fighters, in the system, which the board thereupon shall cause to be made and the cost of which the employer shall bear. Upon completion of the study and estimate the employer may apply for admission to the system, whereupon it shall begin to participate therein and its eligible employes other than volunteer fire fighters shall become members of the system. If the employer is an agency created by two or more political subdivisions to provide themselves governmental

services and ceases thereafter to transmit to the board current service contributions for any of its eligible employes, the benefits based upon employer current service contributions to which such employes would otherwise be entitled shall be reduced accordingly.

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

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

(6) If he has not reached the age of 70 years, a person holding an elective office or an appointive office with a fixed term or an office as head of a department to which he is appointed by the Governor may become a member of the system by giving the board written notice of his desire to do so within 30 days after he takes the office or, in the event that he is not eligible to become a member of the system at the time he takes the office, within 30 days after he becomes so eligible. Membership so established shall not be discontinued during the appointive or elective term of the officer except upon his separation from service.

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

(8) (a) In the event that an employe enters the service of a public employer which is participating in or later begins to participate in the system and in the event that at the time he enters that service or at the time that the employer begins to participate in the system he has commenced to purchase and is continuing to purchase a retirement annuity, if the employer deems the annuity adequate for the purposes of ORS 237.001 to 237.315 it may enter into an agreement with him and the board pursuant to which he may be exempted from contributing to the Public Employes' Retirement Fund, and, if no public funds are being used to purchase the annuity or a corresponding pension, the employer, in lieu of the contributions which it otherwise would make to the fund on his account, may make contributions toward the cost of purchasing the annuity. Such employe otherwise shall be subject to the provisions of ORS 237.001 to 237.315, except that neither he nor any person claiming under him shall receive any payments from the retirement fund as service or disability allowance.

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

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

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

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

(d) A cancellation of membership under paragraph (b) or (c) of this subsection terminates membership in the Public Employes' Retirement System and cancels the right to any benefits from, or claims against, that system. Such cancellation prevents the withdrawing member from claiming thereafter any credit for any service performed before the cancellation. Upon receipt of a notice of cancellation, the Public Employes' Retirement Board shall refund to the withdrawing member, regardless of his age, his account balance in the retirement fund. [1953 c 200 §8; 1955 c.131 §4; 1961 c.331 §1; 1963 c.608 §12; 1967 c.622 §2; 1969 c.435 §1; 1971 c.270 §1; 1975 c.744 §1; 1979 c.861 §1]

237.012 [Repealed by 1953 c.180 §18]

237.013 Membership of certain district judges. Each district court judge who is a member of the Public Employes' Retirement System shall continue to be a member of the system unless he elects to become a member of the Judges' Retirement Fund pursuant to sections 12 to 14, chapter 332, Oregon Laws 1969. Except as otherwise provided in this section, such district court judges shall be governed by the provisions of ORS 237.001 to 237.315 applicable to other persons holding elective offices who may become members of the system. [1959 c.559 §8; 1969 c.332 §16]

237.014 [Repealed by 1953 c.180 §18]

237.015 Membership of employes of public transportation system. Notwithstanding other provisions of law to the contrary, when a public employer who is participating in the Public Employes' Retirement System assumes responsibility for the operation of a public transportation system under section 13, Article XI of the Oregon Constitution, that employer may exclude from membership in the Public Employes' Retirement System all employes, or any class of employes, of the public transportation system. [1969 c 54 §1]

Note: 237.015 was enacted into law by the Legislative Assembly but was not added to and made a part of 237.001 to 237.315 by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

237.016 [Repealed by 1953 c.180 §18]

237.017 Community college employes; use of accumulated unused sick leave to increase benefits. (1) Notwithstanding paragraph (a) of subsection (2) of ORS 237.153, unused sick leave for community college employes shall accumulate for an unlimited number of days and shall accumulate at the rate of 10 days per school year or one day per month employed, whichever is greater. Unused sick leave accumulated by community college employes shall be computed in the same manner as for employes in state classified service for computation of retirement benefits.

(2) Subject to paragraph (a) of subsection (4) of ORS 237.081 and paragraph (c) of subsection (2) of ORS 237.147, community college district employers shall be regarded with the state as constituting one employer. [1969 c.458 §2; 1977 c.860 §1]

237.018 [Repealed by 1953 c.180 §18]

237.019 Membership of certain legislative employes. An employe shall not be considered to have ceased to be a member of the system under subsection (2) of ORS 237.109 by reason of any year in which he is employed by the Legislative Assembly or either house thereof, or by a committee of the Legislative Assembly or either house thereof, for periods aggregating eight months or more during the year, whether or not contributions are made to the fund by or on behalf of the employe for those periods of employment, unless the employe withdraws the amount credited to his account in the fund. [1969 c.92 §2]

237.020 [Repealed by 1953 c.180 §18]

237.021 Membership of persons retired from other system for disability. (1) An employe who was separated from the service of a retirement system described in paragraph (a) of subsection (1) of ORS 237.011 by reason of disability and who was required to withdraw his membership from or was not permitted to become a member of the Public Employes' Retirement System because of such separation, shall be permitted to become members of the system upon June 11, 1969, and shall be permitted to establish membership in the system retroactively as if the amendments contained in ORS 237.011 and 237.021 had been in effect at the time such a person was

first eligible for membership in the system by paying into the system the contributions which would have been required from such an employe since that date.

(2) The payments permitted from the employe under subsection (1) of this section must be made before January 1, 1971.

(3) Upon the payments being received under subsection (1) of this section, the Public Employes' Retirement Board shall adjust the amounts required by subsection (1) of ORS 237.081 from a public employer of an employe described in subsection (1) of this section to reflect the additional pension requirements made upon the system by the establishment of the retroactive membership provided in this section. [1969 c.435 §2]

237.022 [Repealed by 1953 c.180 §18]

237.024 [Repealed by 1953 c.180 §18]

237.025 Membership of deputy district attorneys. Any deputy district attorney receiving any part of his compensation from the state or from a county participating in the Public Employes' Retirement System shall establish membership in the system after service for six months without having been absent 30 working days. Contributions by any such deputy district attorney shall be due from salary paid him by the state, by a county participating in the system or by both. The application of ORS 237.001 to 237.315 to any such deputy district attorney made prior to the effective date of this section by the Public Employes' Retirement Board hereby is confirmed and ratified. [1957 c.630 §2]

237.026 [Repealed by 1953 c.180 §18]

237.027 Membership of employes of Vehicle Equipment Safety Commission. The Public Employes' Retirement Board may make an agreement with the Vehicle Equipment Safety Commission for the coverage of the commission's employes pursuant to ORS 483.670. Any such agreement, as nearly as may be, shall provide for arrangements similar to those available to the employes of this state under this chapter and shall be subject to amendment or termination in accordance with its terms. [1963 c 153 §10]

Note: 237.027 was enacted into law by the Legislative Assembly but was not added to 237 001 to 237 315 by legislative action See the Preface to Oregon Revised Statutes for further explanation.

237.028 [Repealed by 1953 c 180 §18]

237.029 Membership of legislators. (1) Notwithstanding ORS 237.011, any person who is a member of the Legislative Assembly at any time on or after September 13, 1975, and before November 1, 1979, regardless of whether he has reached the age of 65 years, may become a member of the Public Employes' Retirement System by giving the Public Employes' Retirement Board, before November 1, 1979, written notice of his desire to do so. The written notice shall take effect on the first day of the month following the date of receipt thereof by the board or upon the person's completion of six months' service, whichever occurs last.

(2) Notwithstanding any other provisions of ORS 237.001 to 237.315, any person who is a member of the Legislative Assembly and a member of the system, and any person who is not a member of the Legislative Assembly but was a member thereof before January 13, 1975, upon payment to the board before January 1, 1980, of the total amount of the employe contributions he would have made to the Public Employes' Retirement Fund for all periods of service as a member of the Legislative Assembly before the date of that payment for which he was not a member of the system, is entitled to the same benefits under ORS 237.001 to 237.315 for those periods he served as a member of the Legislative Assembly, including those periods after he reached the age of 65 years, that he would have been entitled to had he been a member of the system for those periods. Employe contributions to be paid by a person under this subsection may be paid at his option in a lump sum or in instalments. If the person is a member of the Legislative Assembly, upon his request in writing to the state official authorized to disburse funds in payment of his salary as a member of the Legislative Assembly, the state official shall deduct monthly from that salary the amount of money indicated in the request for payment of employment contributions under this subsection and shall pay amounts so deducted to the board. [1975 c 137 §2; 1975 c.449 §15; 1979 c. 658 §3]

237.030 [Repealed by 1953 c.180 §18]

237.032 [Repealed by 1953 c.180 §18]

237.033 [1961 c.189 §2; repealed by 1969 c 367 §3]

237.034 [Repealed by 1953 c.180 §18]

237.035 [1961 c 189 §3; repealed by 1969 c.367 §3]

237.036 [Repealed by 1953 c.180 §18]

237.038 [Repealed by 1953 c.180 §18]

237.040 [Repealed by 1953 c.180 §18]

237.041 [Formerly 237.056; repealed by 1967 c 622 §25]

237.042 [Repealed by 1953 c 180 §18]

237.044 [Repealed by 1953 c.180 §18]

237.046 [Repealed by 1953 c.180 §18]

237.048 [Repealed by 1953 c.180 §18]

237.050 [Repealed by 1953 c.180 §18]

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

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

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

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

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

(a) A proposed form of contract setting forth all the terms, conditions and provisions of the integration shall be prepared by, and adopted by a majority vote of, the board of trustees of the association and approved by the board of directors of the school district in which the association is organized.

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

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

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

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

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

(g) A contract of integration as aforesaid shall likewise provide that any active member of an association which integrates with the retirement system herein created may elect at the time of the integration as to whether the member shall obtain a refund of the amount standing to the credit of the member on the books of the association at the time of the integration. In the event that a member so elects, then the amount standing to the credit of the member shall be refunded and the additional benefits hereinbefore provided for

shall not be available to the member to whom the refund is made. [1953 c.200 §9]

237.052 [Repealed by 1953 c.180 §18]

237.054 [Repealed by 1953 c.180 §18]

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

237.058 [Repealed by 1953 c.180 §18]

237.060 Monthly retirement allowances to be adjusted to reflect fluctuations in cost of living; board to prescribe rate; adjustment amount limited. (1) On and after July 1, 1972, every monthly retirement allowance payable to or on account of any person who has retired or who will retire as a member of the system shall be adjusted annually to reflect the percentage increase or decrease in the cost of living for the previous calendar year. However, such increase or decrease shall not exceed two percent of any monthly retirement allowance in any year and no allowance shall be adjusted to an amount less than the amount to which the member would be entitled if no cost of living adjustment were authorized.

(2) As soon as practicable after January 1 each year, the Public Employes' Retirement Board shall determine the percentage increase or decrease in the cost of living for the previous calendar year, based on the Consumer Price Index (Portland area—all items) as published by the Bureau of Labor Statistics of the U. S. Department of Labor for the Portland, Oregon area. Prior to July 1 each year the allowance which the member is receiving or is entitled to receive on August 1 for the month of July shall be multiplied by the percentage figure determined, and subject to subsection (1) of this section, the member's allowance for the next 12 months beginning July 1 adjusted to the resultant amount.

(3) The amount of any cost of living increase or decrease in any year in excess of the maximum annual retirement allowance adjustment of two percent shall be accumulated from year to year and included in the computation of increases or decreases in succeeding years.

(4) Any increase in the allowance of the member shall be paid from current service contributions of the public employer under ORS 237.081. Any decrease in the allowance of the member shall be returned to the employer in the form of a credit against current service contributions of the employer under ORS 237.081. [1971 c 738 §11; 1973 c.695 §1]

Note: 237.060 was enacted into law by the Legislative Assembly and was added to and made a part of ORS chapter 237 but was not added to any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

Note: Section 1, chapter 658, Oregon Laws 1979, provides:

Sec. 1. Notwithstanding ORS 237.060, the cost of living percentage increase under ORS 237.060 of a monthly retirement allowance payable to or on account of any person who has retired or who will retire as a member of the Public Employes' Retirement System shall be four percent for the 12 months beginning July 1, 1979, and four percent for the 12 months beginning July 1, 1980.

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

237.062 [Repealed by 1953 c.180 §18]

237.064 [Repealed by 1953 c.180 §18]

237.065 Account balance accumulated under another public employes' retirement system may be deposited to employe's account. Whenever an employe of a public employer participating in the Public Employes' Retirement System establishes membership in the Public Employes' Retirement System he may, within six months after so establishing membership or within six months after June 12, 1957, deposit in a lump sum to his account under the Public Employes' 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 237.001 to 237.315 relating to employes' contributions to the Public Employes' Retirement Fund. [1957 c.630 §4; 1967 c.622 §3]

237.066 [Repealed by 1953 c.180 §18]

237.068 [Repealed by 1953 c 180 §18]

237.070 [Repealed by 1953 c.180 §18]

237.071 Contributions of employes; rate and payment; additional units for police and fire fighters. (1) Each employe who is a member of the system shall contribute to the fund and there shall be withheld from his salary:

(a) If his salary for a month is less than $500, four percent of that salary.

(b) If his salary for a month is $500 or more and less than $1,000, five percent of that salary.

(c) If his salary for a month is $1,000 or more and less than $1,500, six percent of that salary.

(d) If his salary for a month is $1,500 or more, seven percent of that salary.

(2) The contributions of each employe as provided in subsection (1) of this section shall be deducted by his employer from each payroll and transmitted by his employer to the board, which shall cause them to be credited to his account in the fund. Salary shall be considered earned in the month in which it is paid. The date inscribed on the paycheck or warrant shall be considered as the pay date, regardless of when the salary is actually delivered to the employe.

(3) Notwithstanding subsection (2) of this section, for the purpose of computing the percentage of salary to be withheld from a school district employe or an employe of the State Board of Higher Education under subsection (1) of this section whose salary is based on an annual agreement, the agreed annual salary of the employe shall be divided into 12 equal instalments. Each instalment shall be considered as earned and paid in separate, consecutive months, commencing with the first month that payment is actually made under terms of the salary agreement.

(4) An employe who is concurrently employed by more than one participating public employer, and who is a member of or entitled to membership in the system, shall make contributions to the fund on the basis of salary paid by each employer as though he is not paid by any other employer.

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

(b) Notwithstanding paragraph (a) of this subsection, if a police officer or fire fighter retires prior to age 60, he may apply for and receive an actuarially reduced unit income commencing at any date between the date of his early retirement and age 60, with monthly benefits payable for at least 60 months or any other monthly formula in excess of 60 months but always terminating by age 65. Such a police officer or fire fighter may elect to pay in a lump sum within the 60 days immediately preceding his early retirement the contribution that he would have made to his unit income account had he worked to age 60.

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

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

(e) Any election to make additional contributions under this subsection and any cancel-

lation of such election shall be submitted to the employer and to the board in writing. [1953 c.200 §13; 1955 c.131 §5; 1957 c.630 §6; 1959 c.334 §1; 1963 c.608 §1; 1967 c.622 §4; 1969 c.107 §1; 1973 c.695 §2]

237.072 [Repealed by 1953 c.180 §18]

237.073 Contributions and current service pension of certain higher education employes. Notwithstanding any other provision of ORS 237.001 to 237.315:

(1) An employe, as defined in subsection (2) of ORS 243.910, who is a member of the system and who has elected, and not canceled that election, to be assisted by the State Board of Higher Education under subsection (1) of ORS 243.920, shall not contribute to the fund on any part of his annual salary in excess of $4,800 at any time during which the State Board of Higher Education assists the employe under subsection (1) of ORS 243.920.

(2) The current service pension, whether for service or disability retirement, under ORS 237.001 to 237.315 provided by the contributions of the employers of such employe shall be:

(a) If the State Board of Higher Education is assisting such employe under subsection (1) of ORS 243.920 at the time of his retirement, a pension equal to the annuity provided by his accumulated contributions to the fund.

(b) If the State Board of Higher Education is not assisting such employe under subsection (1) of ORS 243.920 at the time of his retirement, but previously so assisted him:

(A) For service before the date the State Board of Higher Education last ceased to assist him, a pension equal to the annuity provided by his accumulated contributions to the fund before that date.

(B) For service on and after the date the State Board of Higher Education last ceased to so assist him, a pension computed as provided in subsection (2) of ORS 237.147, but if he retires before reaching the age of compulsory retirement, actuarially reduced and computed on his then attained age. For the purpose of computing the pension under this subparagraph (B), only the number of years of membership of the employe after the day before that date and only the salary of the employe on which he contributes to the fund for those years shall be considered.

(3) Subsection (2) of this section does not apply to an employe, as defined in subsection (2) of ORS 243.910, who is a member of the system, who elected to be assisted by the State Board of Higher Education under subsection (1) of ORS 243.920 before January 1, 1968, who canceled that election within the first 60 days of the calendar year 1968 as provided in subsection (5) of ORS 243.940 and who does not thereafter elect to be assisted by the State Board of Higher Education under subsection (1) of ORS 243.920.

(4) Subsection (2) of this section does not apply to an employe, as defined in subsection (2) of ORS 243.910, who is a member of the system and has been a member of the system continuously since any date before January 1, 1968; who elected to be assisted by the State Board of Higher Education under subsection (1) of ORS 243.920 before January 1, 1968; and who cancels that election in any calendar year after 1968, but before the calendar year in which he retires, as provided in subsection (5) of ORS 243.940 and does not thereafter elect to be assisted by the State Board of Higher Education under subsection (1) of ORS 243.920. However, the current service pension of an employe described in this subsection, whether for service or disability retirement, under ORS 237.001 to 237.315 provided by the contributions of the employers of the employe shall be, for service during periods in which he was assisted by the State Board of Higher Education under subsection (1) of ORS 243.920, a pension equal to the annuity provided by his accumulated contributions to the fund during those periods. [1965 c.297 §5; 1967 c.622 §5; 1969 c.640 §3; 1977 c.624 §1]

237.074 [Repealed by 1953 c.180 §18]

237.076 [Repealed by 1953 c.180 §18]

237.078 [Repealed by 1953 c.180 §18]

237.081 Employer contributions for current and prior service; amount of prior service credit. (1) A public employer which is a member of the system shall, at intervals designated by the board, transmit to it such amounts as are actuarially computed to be necessary, as determined by the board, to adequately provide the benefits to be provided by the contributions of the employer under ORS 237.001 to 237.315, including such amounts as are actuarially determined to be necessary to amortize within not less than 30 years after December 31, 1968, all liabilities estimated by the actuary to accrue to the system on account of the pensions to be provided by the contributions of the employer, except as otherwise provided in this section. For the purpose of such actuarial computation

only, the school districts of the state shall be regarded as constituting one employer.

(2) In addition each such employer shall transmit to the board, at intervals which it designates, such amounts as are actuarially determined, on the basis of an amount per month equal to $6 for each year of prior service or major fraction thereof for a period not exceeding 20 years for employes who last retired prior to April 8, 1953, and prior to becoming eligible for participation in the Old Age, Survivors and Disability Insurance program and on the basis of an amount per month equal to $4 for each year of prior service or major fraction thereof for a period not exceeding 20 years for all other employes, except as provided in subsection (4) of this section, to be necessary to amortize within not less than 30 years after the employer commences participating in the system or after December 31, 1968, whichever occurs last, all liabilities estimated by the actuary to accrue to the system on account of service by the employer's employes prior to the time it commences participating in the system, and all prior service pension included in retirement allowances shall be computed on the basis hereby established; provided, however, that a political subdivision other than a school district may elect not to alter the basis of $2.50 or $4 per month established by its agreement made when it began to participate in the system established by chapter 401, Oregon Laws 1945, as amended. The 1961 amendment to this subsection does not apply with respect to employes receiving prior service pension on the basis of $6 per month for each year of prior service credit allowed under the amendment to this subsection by section 3, chapter 623, Oregon Laws 1959.

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

(4) Subject to the rules of the board and except as ORS 237.001 to 237.315 otherwise provide, credit shall be granted:

(a) An employe of the state who is a member of the system for his continuous service, for a period not exceeding 20 years, to the state prior to July 1, 1946.

(b) A school district employe who is a member of the system for his continuous service to all school districts of the state as provided in subsection (6) of this section.

(c) An employe of a public employer other than the state or a school district who is a member of the system for his continuous service, on the basis of the formula agreed upon as provided in this subsection, to that public employer prior to the time it commences to participate in the system.

Within 60 days after his employer becomes a participant in the system the board shall issue the member entitled to such credit a certificate of the aggregate of such credit to which he is entitled. The certificate shall be final unless the board, for cause upon his or its own motion, modifies the certificate. The board may arrange with a political subdivision other than a school district, or with an agency created by two or more such political subdivisions to provide themselves governmental services, for determining, on the basis of a formula agreed upon by the board and the governing body of the subdivision or agency, the years of credit which an employe of the subdivision or agency is to receive for service to it prior to the time that it commences to participate in the system, without limitation as to the number of years of such prior service, and any such employe may be given credit for accumulated seasonal employment for such subdivision or agency if he has become a regular employe thereof. The amendments to this subsection and to subsection (5) of this section by section 5, chapter 640, Oregon Laws 1969, shall be deemed to have been in effect since the inception of the system.

(5) When the formula referred to in subsection (4) of this section has been agreed upon and the years of prior service credit have been determined, a political subdivision or agency created by two or more political subdivisions to provide themselves governmental services which desires to increase such credit to its employes may apply to the retirement board for a revision of the formula within the limitations of ORS 237.001 to 237.315. If the board agrees to such revision, the cost incurred in reviewing the records of such employer's employes and making any actuarial computation required to effect an increase of prior service credit shall be borne by the political subdivision or agency.

(6) Each school district employe who is a member of the system shall be granted full credit, for a period not exceeding 20 years, for his continuous service to all school districts of the state prior to July 1, 1946. Each school district shall transmit to the board, at intervals which it designates, such amounts as are actuarially determined, on the basis stated in subsection (2) of this section, to be necessary to amortize, within not less than 30 years after December 31, 1968, all liabilities estimated by the actuary to accrue to the system on account of service by school district employes prior to July 1, 1946. [1953 c.200 §14; 1955 c.131 §6; 1957 c.299 §1; 1959 c.334 §2; 1959 c.623 §3; 1961 c.331 §2; 1963 c.608 §13; 1967 c.622 §6; 1969 c.640 §5]

Note: Section 3, chapter 538, Oregon Laws 1979, provides:

Sec. 3. Notwithstanding any provision of ORS 237.001 to 237.315, and subject to the provisions of this section, a public employer participating in the Public Employes' Retirement System may agree, by a written employment policy or agreement in effect on or after July 1, 1979, and terminating on or before June 30, 1981, to "pick-up," assume or pay the full amount of contributions to the Public Employes' Retirement Fund required of all or less than all employe members of the system employed by the employer. If a public employer so agrees:

(1) The rate of contribution of each employe member of the system employed by the employer who is covered by such policy or agreement shall uniformly be six percent of salary regardless of the amount of monthly salary.

(2) The full amount of required employe contributions "picked-up," assumed or paid by the employer on behalf of its employes shall be considered "salary" within the meaning of subsection (8) of ORS 237.003 only for the purpose of computing an employe member's "final average salary" within the meaning of subsection (12) of ORS 237.003, and shall not constitute additional "salary" or "other advantages" within the meaning of subsection (8) of ORS 237.003 for any other purpose

(3) The full amount of required employe contributions "picked-up," assumed or paid by the employer on behalf of its employes shall be added to the individual account balances of the employes for their annuities and shall be considered employe contributions for all other purposes of ORS 237.001 to 237.315.

237.082 [Repealed by 1953 c.180 §18]

237.084 [Repealed by 1953 c.180 §18]

237.085 Credit for service rendered before employer participated in system, when member's service interrupted for more than five years. A member of the system who was not granted credit for service which he rendered to the state or to his employer prior to the time it commenced to participate in the system, because the member's service had been interrupted for more than five years, shall upon retirement after December 31, 1947, be granted one year of prior service credit for each year of service rendered before his employer commenced to participate in the system for each full calendar year during which he was employed by an employer participating in the system and during which he made contribution to the system; but the total number of years of prior service credit allowed may not exceed the maximum number of years of prior service credit which the employer has agreed to grant to its employes. An employe who, after establishing membership in the system, withdrew his contributions to the fund, shall not be granted the prior service credit described in this section for any year for which any part of the contributions are withdrawn, unless such withdrawn contributions are repaid under subsection (3) of ORS 237.111. Prior service pension based upon prior service credit granted under this section to a member of the system who retired after December 31, 1947, and before January 1, 1961, is not payable for the period before September 1, 1965. [1961 c.342 §2; 1965 c.533 §1]

237.086 [Repealed by 1953 c.180 §18]

237.088 [Repealed by 1953 c.180 §18]

237.090 [Repealed by 1953 c.180 §18]

237.091 Effect of service interruptions on membership. Within the limits hereinafter specified regarding absence from service, no leave of absence, sabbatical leave, illness, accident or emergency preventing or interrupting service by an employe to an employer participating in the system shall be deemed to break the continuity of the employe's membership in the system. [1953 c.200 §16]

237.093 Credits for service in Armed Forces. (1) Any employe of an employer participating in the system who entered or reen-

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

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

(3) Any war veteran who was an employe of an employer participating in the system and who entered or reentered active service with the Armed Forces of the United States subsequent to June 25, 1950, and who, within one year after being otherwise than dishonorably discharged therefrom, returned or returns to the service of the employer, may, within one year of the date of such return, pay to the retirement board in a lump sum the total amount of contributions he would have made based on his salary rate at the time of taking military leave, as though he had remained in the employment of his employer. Any lump sum contribution so made shall be added to the employe's account in the retirement fund and in all respects shall be considered as though made by payroll deduction.

(4) This section does not apply to an employe who does not return to the service of his employer within five years after July 1, 1946, or within five years after the date he entered or reentered active service with the Armed Forces of the United States, whichever is later. [1953 c.200 §16; 1957 c.630 §13; 1967 c.140 §1; 1975 c.200 §2]

237.094 [Repealed by 1953 c.180 §18]

237.095 Service credit and repayment of withdrawn contributions for certain legislative employes. (1) As used in this section, "legislative employe" means any person employed by the Legislative Assembly, either of its houses or any of its committees prior or subsequent to July 22, 1973, during any period or periods of such employment qualifying the person for membership and participation in the Public Employes' Retirement System under the provisions of ORS chapter 237 then in effect. "Legislative employe" does not include any member of the legislature.

(2) A person shall not receive retirement credit in the Public Employes' Retirement System for any period in which he was a legislative employe, during which he did not pay the employe contributions required by law, except as provided under this section and ORS 173.210.

(3) Nothing in this section shall be considered to change any requirements of ORS chapter 237 for membership in the Public Employes' Retirement System, or to grant any membership or other rights to persons whose employment by the Legislative Assembly, either of its houses or any of its committees was not of a character or duration qualifying them under then applicable provisions of ORS chapter 237 for membership in the system.

(4) Any person who is a legislative employe on July 22, 1973, who did not pay the employe contributions required by law during his employment as a legislative employe prior to July 22, 1973, may obtain retirement credit for the period of such employment in the following manner:

(a) No later than one year after July 22, 1973, he shall give written notice to the board that he elects to pay to the fund the unpaid employe contributions attributable to his legislative employment.

(b) He shall then pay to the board the entire amount of the unpaid employe contributions without interest, in a lump sum or at his option in instalments, within five years after the date of making the election but prior to his reaching compulsory retirement age.

(c) If a person has reached compulsory retirement age on or before July 22, 1973, or will reach compulsory retirement age no later than one year after July 22, 1973, the time in which he may pay the contributions to the system is extended to one year after July 22, 1973.

(5) Any person who was a legislative employe prior to July 22, 1973, and who is not so employed on July 22, 1973, but who becomes a legislative employe once again after July 22, 1973, may elect to pay employe contributions and obtain retirement credit for his service

prior to July 22, 1973, as a legislative employe. The election shall be made by giving written notice to the board no later than one year after the first day of the subsequent employment, in the same manner and subject to the same conditions as set forth in subsection (4) of this section.

(6) Subject to subsection (8) of this section, any person who makes the election under subsection (4) or (5) of this section and pays to the system the entire amount of employe contributions required thereunder, and who during other qualifying employment by a participating public employer contributed to the fund and subsequently but prior to July 22, 1973, withdrew his contributions under subsection (2) of ORS 237.111, may, in the same manner and subject to the same conditions as set forth in subsection (4) of this section, repay to the fund the full amount of the contributions withdrawn by him, and his rights in the system forfeited by the withdrawal shall thereupon be restored.

(7) If a person who has reached or will reach compulsory retirement age within one year after July 22, 1973, the time for repayment under this section of the full amount of withdrawn contributions in order to restore rights in the system is extended to one year after July 22, 1973.

(8) A restoration of forfeited rights in the system shall not be available under subsections (6) and (7) of this section if a person withdrew his contributions before the commencement of the employment in the course of which he was or became a legislative employe, if the covered employment in the course of which his withdrawn contributions were made terminated more than five years before the commencement of employment.

(9) Any person who, on July 22, 1973, is an employe of the Legislative Counsel, or the Legislative Counsel, and who would have been eligible for retirement credit in the system for such employment prior to July 22, 1973, but for failure to exercise the option to become a member of the system under provisions of ORS 173.210 prior to its amendment by chapter 735, Oregon Laws 1973, may nevertheless obtain retirement credit in the system for such employment by making the election and paying employe contributions as provided in and subject to the conditions of subsection (4) of this section. The person shall not be eligible to make any election under subsection (5) or subsections (6) and (7) of this section. [1973 c.735 §§2, 3, 4, 5, 6, 7]

237.096 [Repealed by 1953 c.180 §18]

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

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

(2) Served in any branch of the Armed Forces of the United States while on military leave of absence from a position in Federal Government service as set forth in subsection (1) of this section. [1953 c.200 §16]

237.098 [Repealed by 1953 c.180 §18]

237.101 Effect of transfer to other participating employer on accrued rights and credits. No transfer after July 1, 1946, by a member of the system from the service of one employer participating in the system to the service of another such employer shall impair any rights or deprive him of any credits accruing to him as a result of his membership in the system after July 1, 1946, and prior to the transfer. [1953 c.200 §15]

237.102 [Repealed by 1953 c.180 §18]

237.103 Effect of member acting as independent contractor for public employer. Notwithstanding any other provision of ORS 237.001 to 237.315, if an employe who

is a member of the system and employed by a public employer participating in the system is also engaged as an independent contractor by another public employer participating in the system, and the combined periods of that employment and engagement total 600 hours or more in any calendar year, the engagement as an independent contractor shall be considered as employment subject to, and for the purpose of determining contributions and benefits under, ORS 237.001 to 237.315, but shall not be so considered for the purpose of granting him prior service credit. [1969 c.640 §2]

237.104 [Repealed by 1953 c.180 §18]

237.105 [1953 c.200 §15; repealed by 1967 c.622 §25]

237.106 [Repealed by 1953 c.180 §18]

237.107 Prior contributions and service credit not affected by change to calendar year basis. All contributions made and all service credit earned under the Public Employes' Retirement Act of 1953 prior to January 1, 1956, on the basis of a fiscal year shall not be affected by the change from fiscal year basis to calendar year basis on January 1, 1956, under the 1955 amendments of the Public Employes' Retirement Act of 1953, and such contributions and credit are recognized as if no such change had been made. [1955 c.131 §2]

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

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

(2) In the event that he is absent from the service of all employers participating in the system for a total of more than five consecutive years after he becomes a member of the system, except that any school district employe who completes a school year, who is then absent the next five school years but returns to school employment at the beginning of the sixth school year, or reaches earliest service retirement age prior to the beginning of the sixth school year, is deemed to have retained membership in the system. This subsection shall be deemed to have been in effect since the inception of the system. [1953 c.200 §15; 1955 c.131 §7; 1957 c.630 §7]

237.110 [Repealed by 1953 c.180 §18]

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

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

(b) A pension provided by the contributions of his employers as provided in subsection (2) of ORS 237.147, but actuarially reduced and computed on his then attained age; and

(c) An additional life pension (nonrefund) for prior service, including military service, credited to him at the time he first becomes a member of the system, as elsewhere provided in ORS 237.001 to 237.315, which pension shall be provided by the prior service contributions of his employer or, in case he is an employe of a school district, by a uniform rate of contribution by all school districts; except that an employe who is entitled to benefits under ORS 1.310 to 1.390 shall not also be entitled to the prior service pension provided by this paragraph.

(2) In the event that an employe who is a member of the system and has not attained his earliest service retirement age, is separated, for any reason other than death or disability, from all service entitling him to membership in the system, he may withdraw from the fund the amount credited to him in his account; provided that the notice of separation, withdrawal request, and notice of employment, if applicable, shall be transmitted forthwith to the Public Employes' Retirement System by the employer or employe, and the Public Employes' Retirement System may deny or shall recover such withdrawal in favor of the employe unless the employe continues to remain absent from the payroll of any participating employer for a calendar month following the month in which he separates from service. Such withdrawal shall cancel all membership rights in the Public Employes' Retirement System, including the right to

claim credit for any employments prior to withdrawal. If such employe has contributed to the fund in each of five calendar years and terminates before reaching earliest retirement age, he may, before reaching earliest retirement age, elect to withdraw his account balance in the fund. Failing to make such election, there shall be paid the benefits or retirement allowances described in subsection (1) of this section.

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

[1953 c.200 §15; 1955 c.131 §8; 1957 c.630 §8; 1959 c.225 §1; 1963 c.608 §2; 1967 c.622 §7; 1969 c.640 §6; 1971 c.160 §1; 1973 c.704 §4; 1975 c.449 §1]

Note: Section 1, chapter 614, Oregon Laws 1979, provides:

Sec. 1. Notwithstanding any provision of ORS 237.001 to 237.315, a person who is a member of the Public Employes' Retirement System on the effective date of this Act [October 3, 1979] as an employe of the Department of State Police classified as a police officer by the Superintendent of State Police; who previously was a member of the system as a state employe but separated from all service entitling him to membership in the system and withdrew the amount credited to him in his account in the Public Employes' Retirement Fund; and who, within five years after that separation, reentered the service of an employer participating in the system but did not repay the full amount so withdrawn within the time provided therefor by law, may obtain restoration of his rights in the system that were forfeited by the withdrawal and credit for those previous years of membership in the system in the computation of his pension under subsection (2) of ORS 237.147 by repaying to the Public Employes' Retirement Board, before July 1, 1980, the full amount so withdrawn for credit to his account in the fund

237.112 [Repealed by 1953 c.180 §18]

237.113 Credit for service as judge. (1) An employe who is a member of the system, who separates from all service entitling him to membership in the system by reason of becoming a judge subject to the provisions of ORS 1.310 to 1.380, who serves as such a judge for a period of time and who terminates service as such a judge and:

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

(b) Upon such termination has reached, or within six months after such termination reaches, compulsory retirement age under the system and is not entitled to benefits under ORS 1.310 to 1.390,

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

(2) (a) A member who meets the qualifications described in paragraph (b) of this subsection, or who makes the election under paragraph (c) of this subsection, shall have his contributions to the Judges' Retirement Fund added to his account balance for his annuity under ORS 237.001 to 237.315 and his years of service and his salary as a judge shall be used in the computation of his pension under ORS 237.001 to 237.315.

(b) A member described in subsection (1) of this section shall be entitled to the additions to the benefits under ORS 237.001 to 237.315 as provided in paragraph (a) of this subsection if, on the date he terminates service as a judge, neither he nor his spouse are entitled to benefits under ORS 1.310 to 1.390.

(c) A member described in subsection (1) of this section may elect that additions to his benefits under ORS 237.001 to 237.315 be made as provided in paragraph (a) of this subsection if, on the date he terminates service as a judge, he is not entitled to benefits under ORS 1.310 to 1.390, but his spouse is entitled to benefits under ORS 1.310 to 1.390. If he makes the election provided under this paragraph, his spouse's benefits under ORS 1.310 to 1.390 are canceled.

(d) To fund the additions to benefits described in paragraph (a) of this subsection, all the member's employe contributions to the Judges' Retirement Fund and the amount of the employer contributions in the Judges' Retirement Fund necessary to fund the increased pension shall be transferred from the Judges' Retirement Fund provided by ORS 1.310 to 1.390 to the Public Employes' Retirement Fund provided by ORS 237.001 to 237.315.

(3) A person not previously an employe member of the system who becomes a judge subject to the provisions of ORS 1.310 to 1.380, who serves as such a judge for an aggregate period of less than 12 years, who terminates service as such a judge before becoming entitled to retirement pay under ORS 1.310 to 1.390, and who, within two years after such termination, enters the service of

an employer participating in the system, may become a member of the system before completing the six months' service required by ORS 237.011 by giving the board written notice of election to do so. The person also may give to the board, within 30 days after the date of becoming a member of the system as provided in this subsection or otherwise, a written notice of election to obtain rights and benefits under ORS 237.011 to 237.315 for the period of service of the person as a judge, and if that notice is so given:

(a) An amount equal to the contributions of the person to the Judges' Retirement Fund shall be transferred from that fund to the individual account of the person in the Public Employes' Retirement Fund. The person may not withdraw that amount from the individual account.

(b) An amount determined by the board to be necessary to provide the benefits to be provided by the contributions of the employer under ORS 237.001 to 237.315 for the period of service of the person as a judge shall be transferred from the Judges' Retirement Fund to the Public Employes' Retirement Fund and considered an employer contribution to the Public Employes' Retirement Fund.

(c) The person shall be considered to have been an employe member of the system for the period served as a judge.

(d) The right of the person or the surviving spouse or surviving children of the person to any benefit under ORS 1.310 to 1.390 for the period served by the person as a judge is canceled. [1959 c.663 §2; 1971 c 496 §1; 1979 c.727 §2]

237.114 [Repealed by 1953 c.180 §18]

237.115 Transfer of employe's account balance to another public employes' retirement system. Whenever an employe who is past his earliest service retirement age separates from the service of a public employer participating in the Public Employes' Retirement System and who thereafter, but before applying to the Public Employes' Retirement Board for retirement benefits, is employed in a position which entitles him to membership in another public employes' retirement system, either within or without this state, the board, upon the written request of the employe and if in conformance with the provisions of law governing the other public employes' retirement system, may transfer the account balance of the employe under the Public Employes' Retirement System to the other public employes' retirement system. Such transfer shall cancel the right of the employe to claim any future benefits under the Public Employes' Retirement System for service rendered to a public employer in this state prior to the date of the transfer. [1957 c.630 §3]

237.116 [Repealed by 1953 c.180 §18]

237.118 [Repealed by 1953 c.180 §18]

237.120 [Repealed by 1953 c.180 §18]

237.121 Voluntary retirement. (1) A police officer or fire fighter who is a member of the system and attains the age of 50 or any other employe who is a member of the system and attains the age of 55 shall be retired upon written application by the member to the board on a reduced service retirement allowance which shall be the actuarial equivalent of the service retirement allowance at the compulsory retirement age provided for in ORS 237.147.

(2) Notwithstanding subsection (1) of this section and subparagraph (B) of paragraph (b) of subsection (2) of ORS 237.073:

(a) A police officer or fire fighter who is a member of the system and attains the age of 55 shall be retired upon written application by the member to the board on a service retirement allowance including, without actuarial reduction, the same current service pension and prior service pension provided for in ORS 237.147.

(b) A certificated employe of a common school district or union high school district who is a member of the system and attains the age of 58 shall be retired upon written application by the member to the board on a service retirement allowance including, without actuarial reduction, the same current service pension and prior service pension provided for in ORS 237.147.

(c) An employe, other than one described in paragraph (a) or (b) of this subsection, who is a member of the system and attains the age of 60 shall be retired upon written application by the member to the board on a service retirement allowance including, without actuarial reduction, the same current service pension and prior service pension provided for in ORS 237.147. [1953 c 200 §17; 1967 c.622 §8; 1973 c.695 §3; 1975 c.449 §2; 1979 c.812 §1]

237.122 [Repealed by 1953 c.180 §18]

237.124 [Repealed by 1953 c.180 §18]

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

(b) Any person reemployed as by this subsection provided shall resume making contributions to the retirement fund, and his employer shall make contributions on his behalf, as provided in ORS 237.081. Payments of retirement allowance received by such person during his separation from the service shall not be repaid into the retirement fund after he reenters public employment; but the amount of such payment shall be deducted from such employe's reserve in the retirement fund and the remainder shall be credited pro rata to the funds from which it was derived.

(c) Upon reentering public employment as by this subsection provided, the former retirement of such person and any election of option for payment of retirement benefits theretofore made by him shall be canceled; and thereafter upon retiring such person may elect any option for payment of retirement benefits authorized by ORS 237.001 to 237.315. Upon such subsequent retirement any prior service pension due the employe shall be derived from the unused portion of his prior service credit reserve and shall be calculated on the basis of his then attained age or age 70, whichever is the lesser.

(2) Any member of the system who is retired after having reached his earliest service retirement age, but before having reached compulsory retirement age, and who has been retired for less than six consecutive calendar months, may be reemployed before reaching compulsory retirement age by any public employer even though such retired member has been receiving retirement benefits, only upon his immediate repayment in a lump sum of the amount of retirement benefits drawn, after which repayment his account shall be reestablished just as it was at the time of this earlier retirement. [1953 c.200 §17; 1955 c.131 §9; 1967 c.622 §9; 1979 c 861 §2]

237.126 [Repealed by 1953 c.180 §18]

237.128 [Repealed by 1953 c.108 §18]

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

(2) Any school district employe or any dean, associate dean, assistant dean, professor, assistant professor, associate professor, instructor, associate instructor, assistant instructor or associate employed by the State Board of Higher Education who is a member of the system and who has attained the age of 70 years shall be retired from service at the end of the school year in which he attains the age of 70 years and thereafter, except as ORS 237.001 to 237.315 otherwise provide, the date of his retirement shall be the first day of the next succeeding school year.

(3) Except as otherwise provided in subsections (1) and (2) of this section, any employe who is a member of the system and who has attained the age of 70 years shall be retired from service and thereafter, except as ORS 237.001 to 237.315 otherwise provide, the date of his retirement shall be the first day of the calendar month next succeeding the one in which he attains that age. [1953 c.200 §17; 1957 c.630 §9; 1967 c.622 §10; 1979 c.861 §3]

237.130 [Repealed by 1953 c.180 §18]

237.131 Employment of physicians beyond compulsory retirement age. (1) Notwithstanding any other provision of ORS 237.001 to 237.315, a person licensed to practice medicine by the Board of Medical Examiners for the State of Oregon may be employed by any public employer even though the person has reached the age of compulsory retirement. The employment is authorized whether or not the person has been previously employed by a public employer and whether or not he is a retired member of the Public Employes' Retirement System, if the Public Employes' Retirement Board finds that such employment is in the public interest.

(2) During the period of the employment the person shall not be entitled to any pension or annuity provided by ORS 237.001 to 237.315. The person shall be required to make a contribution to the system if he is between the ages of 70 and 75 and is retained by the public employer by whom he was employed on the date he reached 70 years of age and shall receive all rights that would otherwise accrue

to him as a member of the system if he were making the contribution at any age under 70 years of age.

(3) Employment authorized under this section may be terminated at any time by the public employer. [1969 c.226 §2; 1975 c 473 §1; 1979 c.861 §4]

237.132 [Repealed by 1953 c.180 §18]

237.133 Employment of persons beyond retirement age; mandatory retirement age. (1) (a) An employe who is a member of the system and reaches the age of compulsory retirement may submit a request in writing to the employer to be continued in service beyond the age of compulsory retirement. The administrative head of his employer may retain such employe beyond the age of compulsory retirement, if the administrative head determines, and states in a written notice to the employe, the reason that continued service after reaching the retirement age would be in both the employer's interest and the public interest. A copy of such notice shall forthwith be transmitted to the board. No employe who is a member of the system shall be continued in service under this subsection after he reaches the age of 75 years.

(b) No employer or administrative head thereof shall adopt or enforce any general policy that all its employes affected by this subsection shall be or shall not be continued in service; but each employer shall make its decision upon the merits of the case of each individual employe affected.

(c) Any employe continuing in employment past compulsory retirement age as provided in this subsection may be retired at any time after reaching compulsory retirement age and prior to reaching the age of 75 years if the administrative head of his employer determines, and states in a written notice to the employe and the board, the reason that continued service would not be in either the employer's interest or the public interest. Retirement under this paragraph is not subject to appeal. The continuance of any employe in employment past compulsory retirement as provided in this subsection shall be reviewed annually by the administrative head of his employer until the employe reaches the age of 75 years.

(d) In addition to the other requirements of this subsection, the retention of a state employe in the classified service beyond the age of compulsory retirement by an agency of the State of Oregon shall require the approval of the Administrator of the Personnel Division of the Executive Department. Such approval may be granted only if:

(A) Certification for a replacement had been sought from the Personnel Division by the administrative head of the employer not less than three months prior to the date of compulsory retirement, and continuous recruitment for such replacement was conducted without, in the judgment of the Administrator of the Personnel Division, any satisfactory replacement being found; or

(B) The retirement of the state employe would cause extraordinary and excessive costs to be incurred or irreparable damage done to the completion of a defined specific project with an ascertainable termination date.

(2) Employes continuing in employment past compulsory retirement age as provided in this section shall make contributions to the retirement fund. The account balance of any such employe shall continue to earn interest and at the time of the retirement of such employe his annuity benefit shall be computed on his then attained age. His pension benefit shall be computed at the same time and shall be as provided in ORS 237.147, plus, if he is continuing in employment as other than a member of the Legislative Assembly or as other than a legislative employe as defined in subsection (1) of ORS 237.095, an actuarially determined addition for each year of service after compulsory retirement age reflecting the reduced liability of the system occasioned by his later retirement. Any such employe continuing in employment past compulsory retirement age, upon reaching compulsory retirement age or within 60 days thereafter, may elect an optional form of payment to become operative upon his retirement or upon his death, whichever occurs first. No change of an option so elected shall be permitted, nor may there be a change of beneficiary if Option 2 or 3 is elected. Upon the death of the employe before retirement or upon his retirement, benefits payable under the option elected shall be computed as though both the employe and the beneficiary were alive. If the beneficiary designated under Option 2 or 3 predeceases an employe who is a member of the system and who dies before retiring, the account balance of the employe is subject to the provisions of ORS 237.165.

(3) Notwithstanding the provisions of ORS 237.129 or subsection (1) of this section, a person may be elected or appointed to, and hold, an office for a definite term even though

at the time of such election or appointment he shall have reached, or subsequent to such election or appointment reaches, the compulsory service retirement age applicable to him; and a school teacher or other instructor serving under a contract or appointment for a definite term may continue in service until the end of the school year in which he reaches the compulsory service retirement age applicable to him, and any other employe of any school district, subject to the approval of the school board, may continue in service until the end of the school year in which he reaches the compulsory service retirement age applicable to him. Nothing in ORS 237.001 to 237.315, however, shall be construed to prevent the board of any school district not subject to the Fair Dismissal Law from applying to the retirement board for permission to employ a certificated teacher who has reached retirement age, whether or not said teacher has been previously employed by said school board; nor shall ORS 237.001 to 237.315 be construed to prevent the retirement board from granting such permission if it be in the public interest so to do. In the event such permission be granted, such teacher, during the period of such employment, shall not be entitled to any pension or annuity provided by ORS 237.001 to 237.315.

(4) Except as otherwise specifically provided by ORS 237.001 to 237.315, a person who has attained compulsory retirement age:

(a) May not be retained by any public employer other than the one in the employment of which he attained compulsory retirement age.

(b) May not be employed by any participating employer in a position which normally requires 600 hours or more of service per calendar year; but if he is receiving old-age, survivors or disability insurance benefits under the federal Social Security Act, he may be employed for the number of hours for which his salary equals the maximum allowed for receipt of the full amount of those benefits to which he is entitled. A person employed as provided in this paragraph shall not be a member of the system by reason of that employment.

(5) No person who is elected to a full-time salaried office of the state or one of the participating political subdivisions thereof, or who is appointed to a full-time salaried office having a term fixed by statute or charter, after he has attained compulsory retirement age and whether or not he has been retired, shall forfeit any rights accrued or accruing to him; provided, however, that for the period that such person holds such office he shall not be entitled to any pension or annuity provided by ORS 237.001 to 237.315. Upon ceasing to hold such office, his benefits shall be computed or recomputed on the basis of his age then attained. [1953 c.200 §17; 1955 c.131 §10; 1957 c.630 §10; 1959 c.333 §3; 1961 c.331 §3; 1967 c.622 §11; 1969 c.650 §1; 1971 c.317 §1; 1975 c.137 §4; 1975 c.200 §3; 1979 c.214 §1]

237.134 [Repealed by 1953 c.180 §18]

237.135 Employment of domestic or custodial employe beyond compulsory retirement age. Nothing in ORS 237.001 to 237.315 shall be construed to prevent the administrative head of any political subdivision of this state, including any school district, from applying to the retirement board for permission to employ a domestic or custodial employe who has reached retirement age, whether or not the employe has been previously employed by the political subdivision; nor shall ORS 237.001 to 237.315 be construed to prevent the retirement board from granting such permission if it is in the public interest to do so. In the event such permission is granted, such employe, during the period of such employment, shall not be entitled to any pension or annuity provided by ORS 237.001 to 237.315. Any person employed under the provisions of this section shall, within 90 days after the date of such employment, furnish the retirement board with satisfactory documentary evidence establishing his date of birth. Any person employed under the provisions of this section shall be subject to the continuation in service limitation provided by subsection (1) of ORS 237.133. Permission for employment granted by the retirement board under the provisions of this section shall expire at the end of the calendar year for which such permission for employment was applied for and granted, and such permission may be extended for each subsequent calendar year only by a new application to the retirement board from the administrative head of the political subdivision and by affirmative granting of permission by the retirement board. [1955 c.283 §2]

237.136 [Repealed by 1953 c.180 §18]

237.137 [1963 c.387 §2; 1967 c.622 §12; repealed by 1969 c.597 §281]

237.138 [Repealed by 1953 c.180 §18]

237.139 Employment by State Board of Higher Education of persons beyond compulsory retirement age. Nothing in ORS 237.001 to 237.315 shall be construed to prevent the State Board of Higher Education from applying to the retirement board for permission to employ a person for teaching or research purposes who has reached retirement age, whether or not such person has been previously employed by the State Board of Higher Education; nor shall ORS 237.001 to 237.315 be construed to prevent the retirement board from granting such permission if it is in the public interest to do so. In the event such permission is granted, such person, during the period of such employment, shall not be entitled to any pension or annuity provided by ORS 237.001 to 237.315. [1957 c.366 §2]

237.140 [Repealed by 1953 c.180 §18]

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

237.142 [Repealed by 1953 c.180 §18]

237.143 Reemployment of retired employes. (1) Subject to the limitation in subsection (2) of this section, any public employer may employ any person receiving a service retirement allowance, if the administrative head of such employer is satisfied that such employment is in the public interest.

(2) The period or periods of employment by one or more public employers of any person receiving a service retirement allowance shall not total 600 hours or more in any calendar year; but if he is receiving old-age, survivors or disability insurance benefits under the federal Social Security Act, he may be employed for the number of hours for which his salary equals the maximum allowed for receipt of the full amount of those benefits to which he is entitled.

(3) Employment under this section shall not affect the status of a person as a retired member of the system and a recipient of retirement benefits under ORS 237.001 to 237.315. [1959 c.400 §2 (enacted in lieu of 237.141); 1973 c.704 §5; 1979 c.214 §2]

237.144 [Repealed by 1953 c.180 §18]

237.145 Option of legislators to receive certain benefits; employment of persons as legislative employes or state police officer beyond compulsory retirement age. (1) Notwithstanding any other provisions of ORS 237.001 to 237.315:

(a) A retired employe member of the system serving as a member of the Legislative Assembly is entitled, during the period of such service, to any pension or annuity provided by ORS 237.001 to 237.315, unless he is eligible to become and elects to become a contributing employe member of the system as a member of the Legislative Assembly.

(b) A member of the Legislative Assembly who is a member of the system as a member of the Legislative Assembly and as other than a member of the Legislative Assembly, who reaches the age of compulsory retirement and who retires from service as other than a member of the Legislative Assembly, may elect, by giving the board written notice of his desire to do so, to receive the pension and annuity provided by ORS 237.001 to 237.315 for his service as other than a member of the Legislative Assembly, and to continue, for the period he holds office as a member of the Legislative Assembly, as a contributing member of the system as a member of the Legislative Assembly. Upon receipt of the notice the board shall determine that portion of the accumulated contributions of the member and interest thereon attributable to his service as other than a member of the Legislative Assembly, which shall be used in determining the amount of the annuity he shall receive for that service. The portion of the accumulated contributions of the member and interest thereon attributable to his service as a member of the Legislative Assembly shall remain in his individual account and, together with subsequent contributions and interest thereon, be used in determining the amount of the additional annuity he shall receive for that service upon ceasing to hold office as a member of the Legislative Assembly.

(2) Notwithstanding any other provision of ORS 237.001 to 237.315, a person who has reached the age of compulsory retirement, whether or not he has been previously employed by a public employer and whether or not he is a retired employe member of the system, may be employed by the Legislative Assembly, either house thereof or the Oregon State Police for all or any part of a regular or special session of the Legislative Assembly. A person employed under this subsection:

(a) Unless he is an employe member of the system continuing in employment past compulsory retirement age, shall not be permitted to make contributions to the retirement fund, nor shall his employer make contributions on his behalf.

(b) If he is a retired employe member of the system, is entitled, during the period of such employment, to any pension or annuity provided by ORS 237.001 to 237.315. [1967 c.214 §2; 1973 c.30 §1; 1975 c.200 §4; 1977 c.548 §1]

237.146 [Repealed by 1953 c.180 §18]

237.147 Service retirement allowance at compulsory retirement age. Upon retiring from service on account of superannuation at compulsory retirement age a person who is a member of the system shall receive a service retirement allowance which shall consist of the following annuity and pensions:

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

(2) (a) A life pension (nonrefund) provided by the contributions of his employers, which pension, subject to paragraph (b) of this subsection, shall be:

(A) For service as a police officer or fire fighter, 1.35 percent of his final average salary multiplied by the number of years of his membership in the system as a police officer or fire fighter before he reaches the age of compulsory retirement for a police officer or fire fighter.

(B) For service as a member of the Legislative Assembly, 1.35 percent of his final average salary, computed on the basis of calendar years before the date of his retirement instead of calendar years before he reaches the age of compulsory retirement, multiplied by the number of years of his membership in the system as a member of the Legislative Assembly, including those years of service as a member of the Legislative Assembly after he reaches the age of compulsory retirement for other than a police officer or fire fighter.

(C) For service as a legislative employe as defined in subsection (1) of ORS 237.095, one percent of his final average salary, computed on the basis of calendar years before the date of his retirement instead of calendar years before he reaches the age of compulsory retirement, multiplied by the number of years of his membership in the system as a legislative employe, including those years of service as a legislative employe after he reaches the age of compulsory retirement for other than a police officer or fire fighter.

(D) For service as other than a police officer, fire fighter, member of the Legislative Assembly or legislative employe, one percent of his final average salary multiplied by the number of years of his membership in the system as other than a police officer, fire fighter, member of the Legislative Assembly or legislative employe before he reaches the age of compulsory retirement for other than a police officer or fire fighter.

(b) A pension under this subsection shall be at least the actuarial equivalent of the annuity provided by the accumulated contributions of the person.

(c) As used in this subsection, "number of years of his membership" means the number of full years plus any remaining fraction of a year. Except as otherwise provided in this paragraph, in determining a remaining fraction a full month shall be considered as one-twelfth of a year and a major fraction of a month shall be considered as a full month. Membership of a school district employe, an employe of the State Board of Higher Education engaged in teaching or other school activity at an institution of higher education or an employe of the Children's Services Division, the Corrections Division, the Mental Health Division or the State Board of Education engaged in teaching or other school activity at an institution supervised by the board or division, for all portions of a school year in a calendar year in which the district school, institution of higher education or school activity at an institution so supervised in which he is employed is normally in session shall be considered as a full one-half year of membership. The number of years of membership of an employe who received a refund of his contributions as provided in subsection (2) of ORS 237.976 is limited to the number of years after the day before the date on which he received the refund. The number of years of membership of an employe who is separated, for any reason other than death or disability, from all service entitling him to membership in the

system, who withdraws the amount credited to his account in the fund during his absence from such service and who thereafter reenters the service of an employer participating in the system but does not repay the amount so withdrawn as provided in ORS 237.001 to 237.315, is limited to the number of years after the day before the date of so reentering.

(3) An additional life pension (nonrefund) for prior service, including military service, credited to him at the time he first becomes a member of the system, as elsewhere provided in ORS 237.001 to 237.315, which pension shall be provided by the prior service contributions of his employer or, in case he is an employe of a school district, by a uniform rate of contribution by all school districts. [1953 c.200 §18; 1955 c.131 §12; 1967 c.622 §13; 1969 c.597 §140; 1969 c.640 §7; 1971 c.738 §2; 1973 c.695 §4; 1975 c.137 §3; 1975 c.200 §5; 1975 c.449 §3]

237.148 [Repealed by 1953 c.180 §18]

237.149 Current service pension for certain employes. (1) Notwithstanding any other provision of ORS 237.001 to 237.315, the current service pension, whether for service or disability retirement, under ORS 237.001 to 237.315 provided by the contributions of the employers of an employe described in subsection (2) of this section shall be:

(a) For service before January 1, 1968, a pension equal to the annuity provided by his accumulated contributions before that date.

(b) For service after December 31, 1967, a pension computed as provided in subsection (2) of ORS 237.147, but if he retires before reaching the age of compulsory retirement, actuarially reduced and computed on his then attained age. For the purpose of computing that pension the number of years of membership of the employe is limited to the number of years after that date.

(2) Subsection (1) of this section applies to an employe who was a member of the system before January 1, 1968, but was separated, for any reason other than death or disability, from all service entitling him to membership in the system before that date and the separation exists on that date, except:

(a) An employe who was so separated by reason of entering or reenlisting in the Armed Forces of the United States, who returns to the service of his employer within one year after being otherwise than dishonorably discharged from the Armed Forces and who did not during his absence from such service withdraw the amount credited to his account in the fund or, if he did so withdraw that amount, he repays the amount to the board within one year after the date of such return; or

(b) An employe who was so separated, who did not withdraw the amount credited to his account in the fund and who has five or more years of membership in the system after January 1, 1968. [1967 c.622 §23; 1969 c.640 §14; 1977 c.740 §2]

237.150 [Repealed by 1953 c.180 §18]

237.151 Option of certain separated or retired members to receive lump sum payment of benefits. (1) Any member of the system who has separated from the service of all participating employers and whose total retirement allowance at compulsory retirement age or thereafter, as computed by the retirement board in accordance with the nonrefund plan, is less than $10 per month, shall be so notified in writing by the retirement board and within 30 days after the date of such notification may, by written notification to the retirement board, elect to receive as a cash refund in lieu of any and all retirement allowance the sum of his own contributions to the retirement fund plus interest earnings thereon, plus an equal amount contributed by his employer or employers to such fund, plus the sum of his own excess contributions.

(2) A member of the system who has terminated after reaching earliest service retirement age but before having reached compulsory retirement age, whose total retirement allowance at compulsory retirement age, as computed by the retirement board in accordance with the nonrefund plan on the basis of that rate of interest applicable at the time of such employe's request for refund of contributions, would be less than $10 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. [1953 c.200 §15; 1963 c.608 §16; 1967 c.622 §14]

237.152 [Repealed by 1953 c.180 §18]

237.153 Use of accumulated unused sick leave to increase benefits. (1) Upon the request by a public employer that its employes be compensated for accumulated unused sick leave with pay in the form of increased retirement benefits upon service or disability retirement, the board shall establish a procedure for adding to the gross amount of salary used in determining final average salary the monetary value of one-half of the accumulated

unused sick leave with pay of each retiring employe of the requesting public employer and shall establish his benefits on the basis of a final average salary reflecting that addition.

(2) Accumulated unused sick leave with pay may be considered for the purpose of subsection (1) of this section only in accordance with the following requirements:

(a) Sick leave not credited at the rate actually provided by the public employer may not be considered. The amount of sick leave exceeding an amount credited at the lowest rate in effect for any employe of the public employer who is normally entitled to sick leave, and in any event exceeding an amount credited at a rate of eight hours for each full month worked, may not be considered.

(b) Sick leave credited for periods when an employe was absent from employment on sabbatical leave, educational leave or any leave without pay may not be considered.

(c) Any period during which an employe was absent from employment for illness or injury that was charged against sick leave not qualified for consideration shall be deducted from sick leave qualified for consideration.

(d) Sick leave for any period for which the public employer provides no sick leave with pay for its employes may not be considered.

(e) Sick leave accumulated on and after July 1, 1973, may be considered only to the extent it is supported by records of accumulation and use pursuant to a plan adopted formally by the public employer.

(f) Where the public employer provided sick leave before July 1, 1973, but formal records of accumulation and use were not required or if required, are unavailable or incomplete, or the sick leave was subject to administrative limitations on total accumulation or transfer between public employers, accumulated unused sick leave for periods before July 1, 1973, may be considered as equal to 2.675 hours for each full month worked, but reduced by the amount of any accumulated unused sick leave credited to an employe on July 1, 1973. [1973 c.646 §2; 1975 c.203 §1]

237.154 [Repealed by 1953 c.180 §18]

237.155 Optional forms of service retirement allowance. (1) At any time after establishing membership, but within 60 days after the date the service retirement allowance becomes normally due, a person who is a member of the system may elect to convert the allowance described by ORS 237.147 as payable on his account after his retirement into a service retirement annuity of equivalent actuarial value of one of the optional forms named below. The election of Option 2 or 3 shall be effective immediately upon the member's retirement.

Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be the actuarial equivalent of his accumulated contributions and interest thereon credited to him at the time he retires (if death occurs before the first payment is due, the account shall be treated as though death had occurred before retirement); (b) a life pension (nonrefund) provided by the contributions of his employers as provided in subsection (2) of ORS 237.147; (c) an additional nonrefund pension for prior service, including military service, credited to him at the time he first becomes a member of the system, as elsewhere provided in ORS 237.001 to 237.315 which pension shall be provided by the prior service contributions of his employer or, in case he is an employe of a school district, by a uniform rate of contribution by all school districts; or

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

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

(2) Within 60 days after the date the service retirement allowance becomes normally due, a person who is a member of the system may elect, in lieu of the allowance described by ORS 237.147 as payable on his account after his retirement, a service retirement benefit consisting of:

(a) A lump sum refund of his accumulated contributions and interest thereon credited to him at the time he retires; and

(b) A life pension (nonrefund) provided by the contributions of his employers as provided in subsection (2) of ORS 237.147, and an additional life pension (nonrefund) for prior service as provided in subsection (3) of ORS 237.147. At the same time as making the

election under this subsection, the person may elect to convert the pensions described by this paragraph into a service retirement annuity of equivalent actuarial value of one of the optional forms named as Option 2 and Option 3 under subsection (1) of this section.

(3) The designation of a beneficiary or the election of an option under subsection (1) or (2) of this section may be changed by the member at any time before payment of the first benefit check is normally due.

(4) The obligation for payment of any benefit in force prior to April 8, 1953, shall not hereby be altered. However, the beneficiary of a retired member who prior to July 1, 1953, elected an option but died prior to the effective date of such election, shall have a right to repay, before December 31, 1953, the amount of the lump sum refund made in lieu of the monthly life benefit elected and receive payment of such benefit, computed as of the date of the member's death and payable from such date. [1953 c.200 §19; 1955 c.131 §13; 1967 c.622 §15; 1971 c.738 §3; 1973 c.704 §6; 1977 c.740 §1; 1979 c 658 §5]

237.156 [Repealed by 1953 c.180 §18]

237.157 Waiver of retirement allowance payments. (1) If receipt in full by a person of a retirement allowance under ORS 237.001 to 237.315 would prevent such person from receiving in full any other governmental pension to which he is entitled, such person may waive for a calendar year sufficient monthly payments, or portions thereof, of retirement allowance under ORS 237.001 to 237.315 to permit him to receive in full the other governmental pension. The waiver shall be made in writing and filed with the Public Employes' Retirement Board not less than 15 days before the first day of the month to which the waiver applies.

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

(3) The waiver may be revoked at any time, but no retirement allowance waived for the period of time in which the waiver is in effect shall be paid. The revocation shall be made in writing and filed with the board. If a person dies during the period of time in which his waiver is in effect, the waiver is considered revoked on the date of such death. [1959 c.256 §2]

237.158 [Repealed by 1953 c.180 §18]

237.160 [Repealed by 1953 c.180 §18]

237.162 [Repealed by 1953 c.180 §18]

237.164 [Repealed by 1953 c.180 §18]

237.165 Payment of credits or accrued benefits on death of member. (1) In the event that a person who is a member of the system dies before retiring, the amount of money credited at the time of his death to his account in the fund shall be paid to the beneficiaries whom he designates. For this purpose he may designate as a beneficiary any person 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) In the event that a person who is a member of the system dies before retiring and has not designated a beneficiary under subsection (1) of this section, the amount of money credited at the time of his death to his account in the fund shall be paid directly without probate to the surviving next of kin of the deceased or the guardian of the survivor's estate, share and share alike, payment to be made to survivors in the following groups in the order listed:

(a) Husband or wife, or

(b) Children, or

(c) Father and mother, or

(d) Grandchildren, or

(e) Brothers and sisters, or

(f) Nieces and nephews.

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

(3) If the beneficiary designated under subsection (1) of this section is the spouse of the member, such spouse may elect to receive the amount payable in actuarially determined monthly payments for the life of such spouse.

(4) In the event that a person who is a member of the system dies before retiring, has not designated a beneficiary under subsection (1) of this section, has no surviving next of kin referred to in subsection (2) of this section and his estate will not be probated, the amount of money credited at the time of his death to his account in the fund shall be paid directly without probate for the following purposes in the order listed:

(a) Expenses of the funeral of the deceased.

(b) Medical expenses of the last illness of the deceased.

(c) Hospital expenses of the last illness of the deceased.

Claims for payment of expenses under this subsection shall be filed with the board within six months after the date of death of the deceased. If no claims are filed within the six-month period, the amount shall be credited to the fund as are employer contributions. If a balance of the amount remains after payment of valid claims filed within the six-month period, the balance shall be credited to the fund as are employer contributions. Payments under this subsection shall completely discharge the board and system on account of the death.

(5) 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, upon receipt by the board of the affidavit referred to in subsection (2) of this section, to his next of kin in the order listed in subsection (2) of this section. If his estate will not be probated and if there is no beneficiary or next of kin, accrued benefits or a balance due under a refund annuity option shall be paid or credited for the purposes and in the manner provided in subsection (3) of this section. For the purpose of determining accrued benefits due a retired member at the time of his death, accrued benefits are considered to have ceased as of the last day of the month preceding the month in which the retired member dies; but if Option 2 or Option 3 under ORS 237.155 has been elected as provided in ORS 237.001 to 237.315 and the beneficiary survives the retired member, the benefits to the beneficiary shall commence as of the first day of the month in which the retired member dies, and payment of benefits under Option 2 or Option 3 shall cease with a payment for the full month in which the beneficiary dies.

(6) Nothing in ORS 237.001 to 237.315 shall be construed to prevent the Public Employes' Retirement Board from crediting interest earnings to the account of a deceased member whose beneficiary is a minor, until such time as the beneficiary attains majority, or until a legal guardian for him has been named, whichever is sooner. [1953 c.200 §20; 1963 c.608 §18; 1969 c.640 §9; 1971 c.738 §4]

237.166 [Repealed by 1953 c.180 §18]

237.167 Payment upon death of retired member who dies before making election of retirement benefits. If a person who is a member of the system, who has attained compulsory retirement age and who has retired from service, dies without making an election under ORS 237.155 and prior to the expiration of the time within which such an election could be made by him, and the records of the Public Employes' Retirement Board indicate that he has designated his surviving spouse as his beneficiary under subsection (1) of ORS 237.165, such surviving spouse may, not more than 60 days after the date of the death of such deceased member, elect to receive the amount referred to in subsection (1) of ORS 237.165, or elect Option 2 or Option 3 under ORS 237.155 and designate himself as the beneficiary thereunder with the same force and effect as if the election and designation had been properly made by the deceased member. [1957 c.367 §2]

237.168 [Repealed by 1953 c.180 §18]

237.169 Additional death benefit. (1) In addition to any other benefits under ORS 237.001 to 237.315, a death benefit, provided by current service contributions of the public employer under ORS 237.081, shall be paid to the beneficiaries designated under subsection (1) of ORS 237.165 of a person who is a member of the system and who either is employed in the service of a public employer which is a member of the system on the date of his death or dies as a result of injuries received while employed in the service of the public employer or dies within 120 days after termination from services.

(2) The death benefit referred to in subsection (1) of this section shall be an amount equal to the member's account balance at the time of his death.

(3) In the event that a beneficiary has not been named as provided in subsection (1) of this section and subsection (1) of ORS 237.165, the death benefit referred to in subsection (1) of this section shall be paid to the same person

or persons and in the same manner as provided for payment of money credited to his account in subsection (2) of ORS 237.165.

(4) In the event that a beneficiary has not been designated and the deceased member has no surviving next of kin referred to in subsection (2) of ORS 237.165, the death benefit referred to in subsection (1) of this section shall be used for the same purpose and in the same manner as provided for the use of money credited to his account in subsection (3) of ORS 237.165.

(5) If the beneficiary designated under subsection (1) of this section and subsection (1) of ORS 237.165 is the spouse of the member, such spouse may elect to receive the amount payable in actuarially determined monthly payments for the life of such spouse.
[1959 c.623 §2; 1961 c.331 §4; 1963 c.608 §3; 1969 c.621 §1; 1971 c 738 §5; 1973 c.704 §8]

237.170 [Repealed by 1953 c.180 §18]

237.171 Disability retirement allowance. (1) Whenever an employe who is a member of the system and who is under the compulsory retirement age, is found, after being examined by one or more physicians selected by the board, to be mentally or physically incapacitated for an extended duration, as determined by medical examination, and thereby unable to perform any work for which he is qualified, by injury or disease sustained while in actual performance of duty and not intentionally self-inflicted, he shall receive a disability retirement allowance consisting of:

(a) A disability retirement refund annuity based on the contributions credited to his account.

(b) A current service pension provided by the contributions of his employers equal to:

(A) For a police officer or fire fighter, the pension to which he would have been entitled if he had worked continuously until attaining the age of 55, or if he has attained the age of 55, the pension which he would receive were he to voluntarily retire, as provided in ORS 237.001 to 237.315.

(B) For an employe other than a police officer or fire fighter, the pension to which he would have been entitled if he had worked continuously until attaining the age of 60, or if he has attained the age of 60, the pension which he would receive were he to voluntarily retire, as provided in ORS 237.001 to 237.315.

(c) The same prior service pension he would have received had he worked until compulsory retirement age.

(2) As used in subsection (1) of this section, "injury" means bodily injury causing the disability directly and independently of all other causes and effected solely through accidental means.

(3) Whenever an employe who is a member of the system, who has been an employe for 10 years or more of an employer participating in the system, and who is under the compulsory retirement age, is found, after being examined by one or more physicians selected by the board, to be mentally or physically incapacitated for an extended duration, as determined by medical examination, and thereby unable to perform any work for which he is qualified, from cause other than injury or disease sustained while in actual performance of duty or intentionally self-inflicted, he shall receive a disability retirement allowance as provided in subsection (1) of this section.

(4) Payments under a disability retirement allowance provided for in subsection (1) or (3) of this section for the first 90-day period of incapacity shall be withheld until such 90-day period has elapsed.

(5) An employe who is a member of the system, who is separated from all service entitling him to membership in the system and who has not withdrawn the amount credited to his account in the fund is not eligible for disability benefits referred to in subsection (1) or (3) of this section unless he applies for such disability benefits 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.

(6) In computing years of employment for the purpose of subsection (3) of this section, the following schedule shall be used: For employment before the employe established membership in the Public Employes' Retirement System, a member shall be considered to have been employed for one year for each year of prior service credit allowed, and for any minor fraction of a year of continuous service as certified by his employer for which no prior service credit was granted. After having established membership in the Public Employes' Retirement System a member shall be considered to have been employed one year for each

12-month period or major fraction thereof during which time he received compensation for employment which entitled him to membership in the system, as evidenced by payroll records. For the purpose of determining a member's eligibility for disability benefits, no leave of absence after an employe ceases to work for any participating employer shall be considered other than accumulated sick leave not in excess of 90 days. The effective date of the disability shall not in any event be determined by the board as prior to the last day for which the disabled member performed services for a participating employer. No benefits may be paid for any month in which the employe received salary or sick leave benefits from his participating employer. [1953 c 200 §21; 1955 c.131 §14; 1959 c.334 §4; 1963 c 608 §4; 1967 c.622 §16; 1975 c.449 §5]

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

237.174 [Renumbered 237.311]

237.176 [Renumbered 237.315]

237.181 Optional forms of disability retirement allowance. (1) At any time after establishing membership, but before the expiration of 90 days after the board makes its finding that he is disabled, an employe who is a member of the system may elect to convert the disability retirement allowance otherwise payable on his account into a disability retirement annuity of equivalent actuarial value, by selecting one of the optional forms named below. The election of Option 2 or 3 shall be effective immediately upon the effective date of the member's disability, and in the event of his death within the first 90-day period of incapacity, payment to his beneficiary shall be made in accordance with the option selected.

Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be the actuarial equivalent of his accumulated contributions and interest thereon credited to him at the time he retires (if death occurs before the first payment is due, the account shall be treated as though death had occurred before retirement); (b) a life pension (nonrefund) provided by the contributions of his employers as provided in paragraph (b) of subsection (1) of ORS 237.171; (c) an additional nonrefund pension for prior service, including military service, credited to him at the time he first becomes a member of the system, as elsewhere provided in ORS 237.001 to 237.315, which pension shall be provided by the prior service contributions of his employer or, in case he is an employe of a school district, by a uniform rate of contribution by all school districts; or

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

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

(2) The beneficiary designated by a member to receive any benefit under this section shall be the same as designated under subsection (1) of ORS 237.165. The designation of a beneficiary or the election of an option may be changed by a member at any time before the payment of the first benefit check is normally due.

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

(4) The obligation for payment of any benefit in force prior to April 8, 1953, shall not be altered by subsections (1) to (4) of this section. However, the beneficiary of a retired member who prior to July 1, 1953, elected an option but died prior to the effective date of such election, shall have a right to repay, before December 31, 1953, the amount of the lump sum refund made in lieu of the monthly life benefit elected and receive payment of such benefit, computed as of the date of the member's death and payable from such date.

(5) If a member who would have qualified for disability benefits makes preliminary application for such benefits but dies prior to being found by the board to be disabled or prior to electing a plan of benefit payments, and the records of the board indicate that he had designated his surviving spouse as his beneficiary under subsection (1) of ORS

237.165, such surviving spouse may, not more than 90 days after the board makes its finding that the member would have qualified for disability benefits if living:

(a) Elect to receive the amount referred to in ORS 237.169 if such benefit would have been available if the member had not applied for disability benefits; or

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

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

If there is no surviving spouse to receive benefits under this subsection, benefits shall be paid to children under 18 years of age or if there are no such children, to dependent parents, as determined under ORS 316.454 (1975 Replacement Part) or subsection (6) of ORS 316.455 (1975 Replacement Part) of the deceased member, under the provisions of ORS 237.169 if such children or parents would have qualified for benefits under the provisions of this section had the member not filed for disability benefits. If there are no children under 18 years of age nor dependent parents or if the children or dependent parents do not qualify for benefits under ORS 237.169, the account balance of the member is subject to the provisions of ORS 237.165. The obligation for payment of any benefit in force prior to January 1, 1961, shall not be altered by this subsection. However, the beneficiary of a retired member who, after August 5, 1959, and prior to February 24, 1961, died having made preliminary application for disability benefits but prior to having been found by the board to be disabled and prior to having elected a plan of benefit payment shall have the right to elect a benefit as provided in this subsection. [1953 c 200 §21; 1955 c.131 §15; 1957 c.630 §11, 1961 c 27 §1, 1967 c.622 §17; 1969 c.640 §10; 1971 c 738 §6; 1975 c.449 §6]

237.187 Minimum disability benefits; reduction. (1) Whenever an employe who is a member of the system has been found to be entitled to a disability retirement allowance as provided in ORS 237.171, he shall receive not less than an aggregate of $100 a month under the nonrefund plan, subject to reduction to equivalent actuarial value in the event of his exercising any option provided by ORS 237.181.

(2) Notwithstanding ORS 237.171, 237.181 and subsection (1) of this section, if an employe who is a member of the system has been found to be entitled to a disability retirement allowance as provided in ORS 237.171 after he has passed his voluntary retirement age, the amount of his monthly disability retirement allowance shall not be less than the amount which he would have received had he retired for service and elected the same option.

(3) Notwithstanding ORS 237.171, 237.181 and subsection (1) of this section, the amount of a monthly disability retirement allowance shall be reduced by the amount by which the combined total of the disability retirement allowance to which the employe is otherwise entitled for the month and his earned income for the month exceeds the monthly salary received by him at the time of his retirement for disability; but the amount of the reduction shall not reduce the combined total of his disability retirement allowance and earned income for the month to less than $400. [1953 c.200 §21; 1955 c.131 §16; 1963 c.608 §5; subsection (2) enacted as 1963 c.608 §7; 1967 c.622 §18; 1969 c.640 §11]

237.191 Medical examinations for applicants for disability retirement allowance. The board shall require medical examinations for all applicants for retirement for disability under such general rules as it prescribes, and may provide for the discontinuance of any disability retirement allowance and the forfeiture of all rights under ORS 237.001 to 237.315, in the case of any person who refuses to submit to such an examination. [1953 c.200 §21]

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

(2) When a member retired because of disability who is within five years of earliest service retirement age applies to the board for

cancellation of disability benefits, the board may grant such request if:

(a) The board is satisfied, upon the report of its medical examiner, that such member is not incapacitated to the extent that he is disabled from the performance of any work for which he is qualified, and

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

When the conditions set forth in paragraphs (a) and (b) of this subsection have been met, the account of the employe shall be credited with the amount which stood to his credit in his account at the time of his retirement for disability. [1953 c.200 §21; 1957 c.630 §12; 1967 c.622 §19]

237.197 Variable annuity program; employe elections; investment of account; payment of benefits. (1) The purpose of this section is to establish a well balanced, broadly diversified investment program for certain contributions and portions of account balances of employes who are members of the system so as to provide retirement benefits for those employes that will fluctuate as the value and earnings of the investments vary in relation to changes in the general economy. It is anticipated that investment of those contributions and portions of account balances in equities will result in the accumulation of larger deposit reserves for those employes during their working years, tend to preserve the purchasing power of those reserves and the retirement benefits provided thereby and afford better protection in periods of economic inflation.

(2) There is established in the Public Employes' Retirement Fund a separate account to be known as the Variable Annuity Account.

(3) An employe may elect at any time to have 25, 50 or 75 percent of his contributions to the fund on and after the effective date of the election paid into the Variable Annuity Account, credited to his account therein and reserved for the purchase of a variable annuity. An employe who has elected to have a percentage of his contributions so paid, credited and reserved may elect at any time thereafter to have an additional 25 or 50 percent of his contributions, but not to exceed a maximum of 75 percent, so paid, credited and reserved. An election shall be in writing on a form furnished by the board and be filed with the board. An election shall be effective on January 1 following the filing thereof.

(4) An employe who has elected to have contributions paid into the Variable Annuity Account under subsection (3) of this section may thereafter cause his contributions to cease being paid into said account by filing a request in writing on a form furnished by the board and filed with the board. The contributions shall cease being paid into the account after December 31 following the filing thereof. Contributions paid into the account before the effective date of the request for cessation shall remain in the account.

(5) (a) An employe who is a member of the system on January 1, 1968, and who thereafter files an election under subsection (3) of this section, may elect at any time to have an amount equal to 10 percent per year, for not more than five years, of the balance of his account in the fund on the effective date of his election filed under subsection (3) of this section, transferred from his account in the fund to the Variable Annuity Account, credited to his account therein and reserved for the purchase of a variable annuity. An election shall be in writing on a form furnished by the board and be filed with the board. An election is final and irrevocable upon the filing thereof. The first transfer pursuant to an election shall be made on July 1 following the filing of the election, but may be made, in the discretion of the board, on an earlier date.

(b) If the transfers elected by an employe under this subsection have not been completed at the time of his retirement, a transfer equal to one annual transfer shall be made pursuant to an election by him made and filed as provided in this subsection.

(c) No transfer shall be made under this subsection after the first payment on account of the service retirement allowance of the member becomes normally due.

(6) Moneys in the Variable Annuity Account may be invested in investments authorized by law for investment of moneys in the Public Employes' Retirement Fund; but, notwithstanding any other general or specific law, moneys in the account shall be invested primarily in equities, including common stock, securities convertible into common stock, real property and other recognized forms of equities, whether or not subject to indebtedness. Not more than five percent of the amortized value of all the investments of the account and of moneys in the account immediately available for investment may be invested in the obligations of or equities in a single, primary obligor or issuer. A pro rata share of the

administrative expenses of the system shall be paid from interest earned by the Variable Annuity Account.

(7) (a) Except as provided in subsection (8) of this section, the policy-making investment authority for the Public Employes' Retirement Fund shall enter into contracts with one or more persons whom the authority determines to be qualified, whereby the persons undertake to invest and reinvest moneys in the Variable Annuity Account available for investment and acquire, retain, manage and dispose of investments of the account in accordance with subsections (1) and (6) of this section and to the extent provided in the contracts.

(b) Performance of functions under contracts so entered into shall be paid for out of the gross interest or other income of the investments with respect to which the functions are performed, and the net interest or other income of the investments after that payment shall be considered income of the Variable Annuity Account.

(c) The policy-making investment authority may require a person contracted with to give to the state a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by the authority, with corporate surety authorized to do business in this state.

(d) Contracts so entered into and functions performed thereunder are not subject to the State Merit System Law or ORS 279.710 to 279.746.

(e) A person contracted with shall report to the policy-making investment authority as often as the authority may require, but at least annually, the earnings of the moneys invested during the period covered by the report, the capital gains and losses of the account during the period, the changes in the market value of the investments of the account during the period and such other information as the authority may require.

(8) The policy-making investment authority for the Public Employes' Retirement Fund, for and on behalf of the Public Employes' Retirement System and Public Employes' Retirement Board, may enter into group annuity contracts with one or more insurance companies authorized to do business in this state. In lieu of any investment of moneys in the Variable Annuity Account as provided in subsections (6) and (7) of this section, the authority may pay, from time to time under contracts so entered into, any moneys in that account available for investment purposes. Contracts so entered into:

(a) May provide that annuities purchased thereunder be payable in variable dollar amounts, but if that provision is made, provision also shall be made that a person who is a member of the system and who has an account in the Variable Annuity Account, upon retiring from service and before the first payment on account of his retirement allowance becomes normally due, may elect an option to have the annuities payable to him or his beneficiary in fixed or variable dollar amounts or both.

(b) May provide that payment of annuities purchased thereunder may be made by the insurance company directly to persons entitled thereto or to the Variable Annuity Account for payment therefrom to those persons.

(c) Are not subject to ORS 279.710 to 279.746.

(9) Upon retiring from service but within 60 days after the date the service retirement allowance becomes normally due, a person who is a member of the system and who has an account in the Variable Annuity Account may elect to transfer his account balance in that account to his account in the Public Employes' Retirement Fund, and by that transfer his annuity shall be based on his account balance in the Public Employes' Retirement Fund as otherwise provided in ORS 237.001 to 237.315 and he shall not receive a variable annuity as provided in this section.

(10) When an annuity is payable under ORS 237.001 to 237.315 to a person who is a member of the system and who has an account in the Variable Annuity Account or to a beneficiary of that person, the portion of the annuity payable from the Variable Annuity Account shall be proportionately increased or decreased for a calendar year when, as of October 31 of the preceding calendar year, the balance of the account of that person in the Variable Annuity Account exceeds or is less than the current value of the annuity by at least two percent thereof, determined in accordance with the rate of interest and approved actuarial tables then in effect.

(11) Notwithstanding subsection (10) of this section, the board, in the event of extraordinary fluctuation in the market value of investments of the Variable Annuity Account and in order to avoid substantial inequities, may increase or decrease the portions of annuities paid from the account for periods less

than a calendar year and determined as of dates other than October 31.

(12) Except as otherwise specifically provided in this section, the rights and benefits under ORS 237.001 to 237.315 of an employe member or retired employe member of the system or of a beneficiary of the member are not affected by this section and the provisions of ORS 237.001 to 237.315 applicable to accounts of employe members and retired employe members of the system in the Public Employes' Retirement Fund are also applicable to such accounts in the Variable Annuity Account. [1967 c.622 §24; 1969 c.538 §1; 1971 c.738 §7; 1973 c 695 §§5, 5a]

237.198 [1963 c.608 §9; 1967 c.622 §20; repealed by 1971 c.738 §8 (237 199 enacted in lieu of 237.198)]

237.199 Monthly service retirement allowances or monthly disability allowances increased in certain cases. (1) Effective January 1, 1972, the monthly service retirement allowance or monthly disability retirement allowance of each member who retired at the following times shall be increased by the following percentages:

(a) Before January 1, 1968, 25 percent.

(b) After January 1, 1968, but before January 1, 1972, 12 percent.

(2) Effective January 1, 1974, the monthly service retirement allowance or monthly disability retirement allowance, including any increase pursuant to subsection (1) of this section, of each member who retired before January 1, 1974, shall be increased by 25 percent, with the following exceptions:

(a) An allowance including a current service pension computed on the basis of .92 percent of final average salary for a police officer or fire fighter or on the basis of .67 percent of final average salary for a person other than a police officer or fire fighter pursuant to subsection (2) of ORS 237.147 (1967 Replacement Part) shall be increased by 20 percent.

(b) An allowance including a current service pension computed on the basis of 1.15 percent of final average salary for a police officer or fire fighter or on the basis of .84 percent of final average salary for a person other than a police officer or fire fighter pursuant to subsection (2) of ORS 237.147 (1971 Replacement Part) shall be increased by 12 percent.

(c) An allowance including a current service pension computed on the basis of 1.35 percent of final average salary for a police officer or fire fighter or on the basis of one percent of final average salary for a person other than a police officer or fire fighter pursuant to subsection (2) of ORS 237.147 (1973 Replacement Part) shall not be increased.

(3) First effective for the month of October 1977, the monthly service retirement allowance or monthly disability retirement allowance of each member who is entitled to receive the allowance for the month of October 1977 shall be increased by the following percentages:

(a) Twenty-five percent of the first $50 of the monthly allowance;

(b) Fifteen percent of the amount of the monthly allowance exceeding $50 and not exceeding $150;

(c) Ten percent of the amount of the monthly allowance exceeding $150 and not exceeding $250;

(d) Five percent of the amount of the monthly allowance exceeding $250 and not exceeding $350; and

(e) One percent of the amount of the monthly allowance exceeding $350. [1971 c.738 §9 (enacted in lieu of 237.198); 1973 c.695 §6; 1977 c.627 §1]

237.200 Minimum service retirement allowance for certain employes. Notwithstanding any other provision of ORS 237.001 to 237.315, the service retirement allowance, including any increase pursuant to ORS 237.199, of a member whose number of years of membership in the system, determined as provided in ORS 237.147, is 15 or more shall be not less than $100 a month, computed under the nonrefund plan:

(1) For a member who retires and begins receiving a service retirement allowance before or on reaching the applicable age of compulsory retirement, on the basis of retirement at the applicable age of compulsory retirement.

(2) For a member who retires and begins receiving a service retirement allowance after reaching the applicable age of compulsory retirement, on the basis of his age reached at retirement. [1973 c.695 §8; 1979 c.861 §5]

237.201 Rights and moneys exempt from taxes, execution and bankruptcy; assignment prohibited; exception. The right of a person to a pension, an annuity or a retirement allowance, to the return of contribution, the pension, annuity or retirement allowance itself, any optional benefit or death

benefit, or any other right accrued or accruing to any person under the provisions of ORS 237.001 to 237.315, and the money in the various funds created by ORS 237.271 and 237.281, shall be exempt from all state, county and municipal taxes heretofore or hereafter imposed, except as provided under ORS chapter 118, shall not be subject to execution, garnishment, attachment or any other process or to the operation of any bankruptcy or insolvency law heretofore or hereafter existing or enacted except for execution, garnishment or other process upon a support obligation or an order entered pursuant to ORS 23.777 to 23.783, and shall be unassignable. [1953 c.200 §22; 1969 c.640 §13; 1971 c.732 §3; 1979 c.85 §2]

237.205 Employe retirement benefits payable to others under certain court decrees. (1) Notwithstanding ORS 237.201 or any other provision of law, payments under ORS 237.001 to 237.315 of any pension, annuity, retirement allowance or other benefit that would otherwise be made to a person entitled thereto under ORS 237.001 to 237.315 shall be paid, in whole or in part, by the board to another person if and to the extent expressly provided for in the terms of any court decree of annulment or dissolution of marriage or of separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of annulment or dissolution of marriage or of separation. Any payment under this subsection to a person bars recovery by any other person.

(2) Subsection (1) of this section applies only to payments made by the board after the date of receipt by the board of written notice of the decree, order or agreement and such additional information and documentation as the board may prescribe.

(3) As used in this section, "court" means any court of appropriate jurisdiction of this or any other state or of the District of Columbia. [1979 c.607 §2]

Note: Section 5, chapter 607, Oregon Laws 1979, provides:

Sec. 5. Sections 2 and 4 of this Act apply only to payments made under ORS 237.001 to 237.315 and 239.201 to 239.263 after the effective date of this Act [October 3, 1979].

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

(2) The board shall have:

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

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

(3) The board:

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

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

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

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

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

(f) Shall publish and distribute to all employer and employe members of the system an annual report including a summary of investments of moneys in the fund, investment earnings, significant legislative or administrative changes in the system and other pertinent information on the operation of the system for the preceding year.

(4) The board established by this section shall succeed to all the duties and prerogatives of the Public Employes' Retirement Board created by chapter 401, Oregon Laws 1945, in relation to the Public Employes' Retirement Fund, and in addition shall perform all duties required of it by ORS 237.950 to 237.980, in regard to moneys payable to or from such fund. [1953 c.200 §§4, 10; 1955 c.131 §17; 1963 c.608 §10; 1971 c.418 §10]

237.253 Board consideration of goals and objectives of system. The Public Employes' Retirement Board shall include a study of accounting, reporting and related subjects when considering the goals and objectives of the Public Employes' Retirement System. [1979 c.552 §3]

Note: 237 253 was enacted into law by the Legislative Assembly and added to and made a part of 237.001 to 237 315, but was not added to or made a part of 237.199 to 237.291 by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

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

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

(3) A member of the board is entitled to compensation and expenses as provided in ORS 292.495 from the Public Employes' Retirement Fund. [1953 c.200 §§4, 5; 1969 c.314 §15]

237.259 Director and staff. The system shall be administered, subject to the limitations of ORS 237.001 to 237.315 and the budget prescribed by the board, by the director provided for by ORS 237.251 and by a staff which the board authorizes and which the director appoints. The director shall hold that position during the discretion of the board and the members of the staff shall hold their respective positions during the discretion of the director. No member of the staff may be removed from it, however, in a manner contrary to the laws of the state regarding civil service. The director shall furnish such bond as is required by the board. [1953 c.200 §7; 1973 c.704 §11]

237.263 Rules of board. Subject to the limitations of ORS 237.001 to 237.315, the board shall, from time to time, establish rules and regulations for transacting its business and administering the system. In addition to the requirements of ORS 183.310 to 183.500 and chapter 734, Oregon Laws 1971, no such rule shall have effect until 10 days after all the following conditions are substantially met:

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

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

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

(4) There shall likewise be posted a notice that at a specifically designated time and place at least 15 days after the date of the notice a hearing on the rule is to be held, at which all parties interested in the rule shall have an opportunity to be heard and after which the board may adopt it in the form in which it is originally proposed or with whatever amendments the board deems necessary to make in it as a result of the hearing. [1953 c.200 §6; 1971 c.734 §34]

Note: The Legislative Counsel has not, pursuant to 173.160, undertaken to substitute specific ORS references for the words "this Act" in 237.263. Chapter 734, Oregon Laws 1971, enacted into law and amended ORS sections which may be found by referring to the 1971 Comparative Section Table located following the Index in volume 6 of Oregon Revised Statutes (1971 Replacement Parts).

237.271 Public Employes' Retirement Fund; disbursements; annual audit. (1) The Public Employes' Retirement Fund hereby is declared to be a trust fund for the uses and purposes set forth in ORS 237.001 to 237.315 and 237.950 to 237.980, and for no other use or purpose, except that this provision shall not be deemed to amend or impair

the force or effect of any law of this state specifically authorizing the investment of moneys from the fund. Except as otherwise specifically provided by law, the Public Employes' Retirement Board established by ORS 237.251 hereby is declared to be the trustee of the fund.

(2) The State of Oregon and other public employers that make contributions to the fund have no proprietary interest in the fund or in the contributions made to the fund by them. The state and other public employers disclaim any right to reclaim those contributions and waive any right of reclamation they may have in the fund. This subsection does not prohibit alteration or refund of employer contributions if the alteration or refund is authorized under ORS 237.001 to 237.315 and is due to erroneous payment or decreased liability for employer contributions under the system.

(3) The board may accept gifts of money or other property from any source, given for the uses and purposes of the system. Money so received shall be paid into the fund. Money or other property so received shall be used for the purposes for which received. Unless otherwise prescribed by the source from which the money or other property is received, the money shall be considered as income of the fund and the other property shall be retained, managed and disposed of as are investments of the fund.

(4) All moneys paid into the fund shall be deposited with the State Treasurer, who shall be custodian of the fund and pay all warrants drawn on it in compliance with law. No such warrant shall be paid until the claim for which it is drawn is first approved by the director and otherwise audited and verified as required by law; provided, that the board may direct that the director each month prepare, certify and transmit to the Executive Department a roll of benefits, showing the names of the various beneficiaries and the amount due to each of them for the month; and the department shall draw a warrant on the State Treasurer for the aggregate amount thereof, payable to the director who immediately shall pay over the money thereby received to the several beneficiaries thereto entitled as certified in such roll. In the absence of the director, these duties may be performed by his assistant designated by the board.

(5) Any warrant, check or order for the payment of benefits or refunds under the system out of the fund issued by the board which is canceled, declared void, abandoned or otherwise made unpayable pursuant to law because it is outstanding and unpaid for a period of more than seven years, may be reissued by the board 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.

(6) The board shall provide for an annual audit of the retirement fund and for an annual report to the Legislative Assembly and to all members of, retirees of, and all employers participating in, the system. Such annual report shall include as a minimum: Comparative balance sheets, comparative operating statements, comparative statements of trust fund balances, comparative statements of changes in financial position, together with the report of the auditor. These statements shall be prepared in accordance with generally accepted accounting principles. [1953 c.200 §10; 1955 c.131 §18; 1959 c.556 §5; 1961 c.508 §1; 1967 c.335 §22; 1973 c.704 §12; 1975 c.614 §4; 1979 c.552 §1]

237.273 [1959 c.556 §3; 1961 c.124 §1; 1961 c.508 §2; subsection (3) enacted as 1963 c.569 §26; repealed by 1967 c.335 §60]

237.274 [1961 c.508 §§4, 5, 6, 7; 1963 c.183 §2; 1965 c.497 §1; repealed by 1967 c.335 §60]

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

237.277 Credits to individual accounts where earnings less than assumed interest rate. (1) As used in this section, "individual account" means the individual account for each employe member of the system in the Public Employes' Retirement Fund provided for under ORS 237.275, but not his individual account in the Variable Annuity Account established by ORS 237.197.

(2) The individual account for an employe member of the system shall be examined each year. If the individual account is credited with earnings for the previous year in an amount less than the earnings that would have been credited pursuant to the assumed interest rate for that year determined by the board, the amount of the difference shall be credited to the individual account and charged to a reserve account in the fund established for the purpose. A reserve account so established may

not be maintained on a deficiency basis for a period of more than five years. Earnings in excess of the assumed interest rate for years following the year for which a charge is made to the reserve account shall first be applied to reduce or eliminate the amount of a deficiency. [1975 c.333 §2]

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

237.281 Reserve accounts in fund; amortizing gains and losses; report to legislature. (1) At the close of each calendar year, the board shall set aside, out of interest and other income received through investment of the Public Employes' Retirement Fund during the calendar year, such part of the income as the board may deem advisable, not exceeding seven and one-half percent of the combined total of such income, which moneys so segregated shall remain in the fund and constitute therein a reserve account. Such reserve account shall be maintained and used by the board to prevent any deficit of moneys available for the payment of retirement allowances, due to interest fluctuations, changes in mortality rate or, except as provided in subsection (3) or (4) of this section, other unforeseen contingency.

(2) At the close of each calendar year, the board shall set aside, out of interest and other income received during the calendar year, after deducting the amounts provided by law and to the extent that such income is available, a sufficient amount to credit to the reserves for pension accounts and annuities varying percentage amounts adopted by the board as a result of periodic actuarial investigations. The rates at which interest and other income are to be credited to reserves shall be reported by the board to the Legislative Assembly and disclosed when any legislative committee conducts a hearing on any action, proposal or testimony from the board or its employes regarding benefits or the financing of benefits provided or to be provided under the Public Employes' Retirement System. If total income available for distribution exceeds those percentages of the total accumulated contributions of employes and employers, the reserves for pensions and annuities shall participate in such excess.

(3) The board may set aside, out of interest and other income received through investment of the fund, such part of the income as the board considers necessary, which moneys so segregated shall remain in the fund and constitute one or more reserve accounts. Such reserve accounts shall be maintained and used by the board to offset gains and losses of invested capital. The board, from time to time, may cause to be transferred from the reserve account provided for in subsection (1) of this section to a reserve account provided for in this subsection such amount as the board determines to be unnecessary for the purposes set forth in subsection (1) of this section and to be necessary for the purposes set forth in this subsection.

(4) The board may provide for amortizing gains and losses of invested capital in such instances as the board determines that amortization is preferable to a reserve account provided for in subsection (3) of this section. [1953 c.200 §10; 1955 c.131 §19; 1967 c.335 §23; 1967 c.622 §§21, 21a; 1973 c.704 §13]

237.285 Actuarial report. At least once every four years the board shall cause a competent actuary familiar with public systems of retirement and death benefits to prepare a report evaluating the current and prospective assets and liabilities of the system and indicating its current and prospective financial condition. In preparing the report the actuary shall investigate the mortality, disability, service and other experience of the members of, and employers participating in the system, shall state fully the condition of the system, and shall make such recommendations as he deems advisable to facilitate administering it properly. The board shall publish and distribute a summary of the report to all the public employers participating in the system. The board may authorize the transfer of any portion of the funds collected under the provisions of ORS 237.081 to carry out the recommendations of the actuary. [1953 c.200 §12; 1955 c.131 §20]

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

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

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

(4) Amounts payable as refunds and retirement allowances shall not for any purpose be deemed expenses of the board and shall not be included in its biennial departmental budget. [1953 c.200 §11]

237.300 Applicability of ORS 237.301 to 237.315 to enforce certain provisions of ORS 237.001 to 237.291. All provisions of ORS 237.301 to 237.315 hereby are made applicable for enforcement of the requirements of ORS 237.001 to 237.143, 237.147, 237.151, 237.155 to 237.195 and 237.199 to 237.291. [1953 c.523 §1]

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

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

(3) The Director of the Executive Department shall, within 10 days after receipt of request, then approve the payment of such amount by the delinquent officer or department from funds allocated to him or it for the current biennium and certify such approval to the Secretary of State, who shall draw his warrant for payment of the amount of contributions due out of funds in the State Treasury allocated to the use of such delinquent state officer or department. [1953 c.523 §4]

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

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

(3) If any public agency fails to furnish any report required under ORS 237.001 to 237.315 or in any other way fails to comply with ORS 237.001 to 237.315, the board may certify to the Executive Department the fact of such failure. Upon receipt of the certification the department shall withhold payment to the public agency of any revenues or funds in the State Treasury in which the public agency is entitled by law to share and which have been apportioned to the public agency until the board certifies to the department that the failure has been remedied. The board shall send a copy of each certification it makes under this subsection to the public agency affected. [1959 c.556 §4; 1975 c.614 §5]

237.305 Political subdivisions to furnish reports and information; proceedings on default. All political subdivisions and agencies created by two or more political subdivisions to provide themselves governmental services subject to the Public Employes' Retirement Act of 1953 shall promptly and regularly transmit to the board all employment reports and other necessary information concerning their respective employes required by the board and in conformance with the rules of the board. Any public employer who fails or neglects to make reports or supply information concerning its employes as required by the rules of the board shall be given written notice of the default. If the default is not remedied within 10 days from the date of the mailing of notice, the board shall send a further request by registered mail. If the default is not remedied within 30 days from the date of mailing such further request, the board may cause its own representative to make such examination and investigation of the employment records of the employer as may be necessary to obtain such information. The costs necessarily incurred in making such investigation, including reasonable travel expenses and the hiring of clerical assistance, shall be a charge against the account of such public employer in the Public Employes' Retirement Fund. If there is no account of such employer in the fund, the board may collect the amount of such costs and expenses by an action at law. [Formerly 237.172; 1963 c.608 §14]

237.311 Mandamus against defaulting employer; appeal. In addition to the remedies otherwise provided by ORS 237.305 the board may, by petition in usual form apply to the circuit court for the county in which is located the public employer concerned, or the principal office or place of business of such public employer, for, and if warranted, to have issued, writs of mandamus to compel such public employer to supply to the board a true and complete list and employment records of such employer's employes and all information concerning such employes that reasonably may be required and sought by said board in such petition. Such writs, among other things, shall direct the defendant therein to make such contributions to the retirement fund on account of such defendant's employes as may appear, from records and information concerning such defendant's employes, to be required by law. Either or both parties thereby aggrieved may appeal to the Court of Appeals from, or from any part of, the judgment of the circuit court given and made in such proceeding, as in ordinary mandamus proceedings. [Formerly 237.174; 1979 c.562 §8]

237.315 Procedure for board hearings. In order to determine any facts necessary to the administration of the retirement system, the board may conduct hearings, subpena and examine witnesses and require any person having custody thereof to bring before the board any book, record, document, certificate, writing, article or thing necessary to a determination of facts. The chairman or member of the board acting in such capacity shall have authority to administer oaths. The procedure in such hearings shall be informal. Fees shall not be paid to witnesses who are public officers or employes, whether or not their employer is participating in the system. No public employer shall make deduction from the compensation of public officers or employes because of absence from their respective positions in order to be examined as witnesses before the board. The fees of other witnesses and mileage of any witness shall be the same as allowed by law to witnesses in civil cases in courts of record. Fees and mileage and all other necessary disbursements in connection with a hearing shall be paid by the public employer whose failure or refusal to supply any facts requested of it by the board made necessary such hearing. [Formerly 237.176]

237.320 Board, on behalf of retired members, may contract for medical and hospital insurance. (1) The board shall investigate terms and conditions upon which hospital and medical or hospital or medical expense insurance protection may be made available to retired members of the system. Such investigation shall be confined to companies authorized to conduct such business within the State of Oregon, including but not limited to health care service contractors as defined in ORS 742.010, and shall be completed before April 1, 1960.

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

(3) Thereafter, and before July 1, 1960, the board shall, in writing, conduct a poll of all such retired members to determine whether or not they desire that, in their behalf, the board execute a contract or contracts for such coverage. If a sufficient number of such retired members so balloting request such cover-

age, the board, in behalf of the eligible retired members so requesting, promptly shall enter into such contract or contracts as are contemplated by such plan.

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

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

(6) Periodically, the board shall review the current contract or contracts for such insurance coverage and make suitable inquiry in the field for the purpose of determining whether or not a different contract or contracts for such coverage can be, and in the best interest of such participating members ought to be, entered into; and if it thereupon appears to the board that it would be advantageous to such participating members so to do, the board shall enter into such different contract or contracts in their behalf. [1959 c.319 §2; 1967 c.359 §685]

COVERAGE OF EMPLOYES UNDER FEDERAL SOCIAL SECURITY ACT

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

(1) "Public agency" or "political subdivision" means the State of Oregon, any city, county, municipal or public corporation or any political subdivision of the State of Oregon or any instrumentality thereof, or any school district, or any agency created by two or more political subdivisions referred to in subsection (7) of ORS 237.003 to provide themselves governmental services, the employes of which constitute a coverage group. For purposes of ORS 237.420 to 237.520, such agency created by two or more political subdivisions is a governmental instrumentality and a legal entity with power to enter into contracts, hold property and sue and be sued.

(2) "Coverage group" has the meaning given that term by the provisions of section 218 of title 2 of the federal Social Security Act, and amendments thereto, and applicable federal regulations adopted pursuant thereto. [Amended by 1953 c.192 §7; 1963 c.608 §15]

237.411 Construction of ORS 237.412 to 237.418 as supplemental to ORS 237.420 to 237.520. The provisions of ORS 237.412 to 237.418 relating to Old Age and Survivors Insurance coverage are supplemental to ORS 237.420 to 237.520, and shall be so construed. [1953 c.180 §8]

237.412 Declaration of policy regarding federal social security protection for employes of state and political subdivisions. In order to extend to employes of the State of Oregon, all the school districts and all the political subdivisions of the state participating in the Public Employes' Retirement System immediately prior to March 27, 1953, and to the dependents and survivors of such employes, the basic protection accorded to others by the Old Age and Survivors Insurance system embodied in title 2 for the federal Social Security Act, it hereby is declared to be the policy of this state, subject to the limitations of ORS 237.412 to 237.418, that such action be taken, and hereby it is expressly authorized, as to provide such protection to employes of the state and its political subdivisions on as broad a basis as is permitted under applicable federal law. [1953 c.180 §1]

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

(2) The agreement shall provide benefits for employes whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such

services constituted employment within the meaning of title 2 of the Social Security Act.

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

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

(5) All services which:

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

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

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

(6) The Public Employes' Retirement Board hereby is authorized and directed to include in the agreement for Old Age and Survivors Insurance coverage to be executed by the board with the Federal Security Administrator (Secretary of Health, Education and Welfare) in conformance with this section, the elective officers of the political subdivisions described in subsection (1) of this section, and the elective officers of the State of Oregon, except members of the Legislative Assembly. [1953 c.180 §12; 1953 c.193 §1; 1957 c.261 §1; 1967 c.38 §4; 1973 c.704 §14]

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

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

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

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

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

237.420 Agreements to extend federal social security coverage to employes of public agencies not covered by ORS 237.414. The Public Employes' Retirement Board established by ORS 237.952 shall, for the purposes of administration of this law, after March 27, 1953, succeed to the powers and duties of the Public Employes' Retirement Board established by chapter 401, Oregon Laws 1945, as amended, and shall, upon application by any public agency in accordance with ORS 237.430 and 237.440, execute on behalf of the state an agreement or modification of such agreement, with the Federal Security Administrator (Secretary of Health, Education and Welfare), or his designated agent or successor, for the coverage of employes of such public agency under the insurance system established by title 2 of the federal Social Security Act in conformity with the provisions of section 218 thereof and amendments thereto, and applicable federal regulations adopted pursuant thereto. [Amended by 1953 c.192 §7]

237.430 Public agencies to be included in the agreement. The agreement shall include each coverage group as to which formal request for inclusion is made by the legislative or governing body of the employing public agency pursuant to ORS 237.440, prior to the effective date of the agreement, or any modification thereof. However, the board shall not be required to include in any agreement or modification any public agency which is not entitled by law to share in any apportionment of state revenue or funds and has at any time within the 10 years next preceding the date of its application been insolvent or failed to pay when due, the principal or interest of its bonds, warrants or other obligations. [Amended by 1953 c.192 §7]

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

sion in the agreement or any modification thereof. [Amended by 1953 c.192 §7; 1955 c.278 §1]

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

237.460 Withholding and remitting of employes' contributions. Every public agency included in the agreement shall withhold from wages and salaries paid by it to officers and employes covered by the agreement, and remit to the retirement board, that portion required to be withheld from the salaries and wages of employes under the provisions of section 1400 of the federal Internal Revenue Code and amendments thereto.

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

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

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

237.490 Deposit investment and payment of funds. (1) All employer and employe contributions and other moneys received or collected by the Public Employes' Retirement Board under ORS 237.410 to 237.520 shall be deposited in the State Treasury to the credit of the General Fund in an account to be known as the Social Security Revolving Account and such account hereby is appropriated for the purposes of ORS 237.410 to 237.520.

(2) All moneys in the account shall be held in trust and invested as provided in ORS 293.701 to 293.776. Interest from such investments shall be used first for paying the administrative expenses described in ORS 237.500 and not later than the 15th day of February, May, August and November, after paying the administrative expenses, as determined by the Public Employes' Retirement Board, for the preceding calendar quarter, the balance of the interest remaining shall be available for general governmental expenses.

(3) The Executive Department may review all duly approved claims certified by the Public Employes' Retirement Board for the payment of amounts required to be paid to the Secretary of the Treasury pursuant to agreements entered into under ORS 237.430 to 237.440, and for the payment of necessary refunds and may issue warrants therefor payable out of the Social Security Revolving Account. [Amended by 1967 c.399 §§2, 6; 1975 c.614 §6]

237.500 Administrative expenses. All expenses of the Public Employes' Retirement Board in excess of those paid under subsection (2) of ORS 237.490 incurred in administering the provisions of ORS 237.410 to 237.520, including such proportion of the salary of the director, counsel, professional consultants and employes of the retirement board, as the time required of them for the administration of ORS 237.410 to 237.520 shall bear to the time required for the administration of both ORS 237.410 to 237.520 and the public employes retirement law, shall be paid in the manner

provided by law, out of the Social Security Revolving Account. For such purpose, the board may make monthly withdrawals from said account in lump sums. The board may, under such rules as it promulgates, collect from each public agency its respective pro rata share of the expenses incurred in administering ORS 237.410 to 237.520. Each public agency included in the agreement pursuant to ORS 237.430 is required to pay its pro rata share of the expenses incurred by the board in administering ORS 237.410 to 237.520. In order to facilitate financing the administration of the system the board may designate fiscal periods and may provide that extraordinary expenses incurred during one such period, such as expenses for equipment, may, for purposes of equitably distributing part of the burden of the expenses, be apportioned to subsequent fiscal periods in such manner as to the board seems equitable. [Amended by 1953 c.192 §7; 1967 c.399 §3; 1973 c.704 §15]

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

(2) In order to obtain prompt remittance of contributions and payment of obligations due under ORS 237.410 to 237.520, the board, in the event of delinquency of any public agency entitled by law to share in the apportionment of any state revenues or funds, shall certify the amount of such delinquency to the Executive Department which shall pay the claim out of any revenues or funds in the State Treasury apportioned to the delinquent public agency. [Amended by 1953 c 192 §7; 1975 c.614 §7]

237.515 Exclusion of contributions from biennial budget. Contributions required by ORS 237.410 to 237.520 to be placed in the Social Security Revolving Account and thereafter remitted to the Secretary of the Treasury of the United States shall not be included in the biennial budget of the Public Employes' Retirement Board as income or expenses of such board. [1953 c.192 §7]

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

COVERAGE FOR POLICE OFFICERS AND FIRE FIGHTERS

237.610 Definitions for ORS 237.610 and 237.620. As used in this section and ORS 237.620:

(1) "Fireman" means:

(a) Persons employed by a city, county or district whose duties involve fire fighting but does not include volunteer fire fighters; and

(b) The State Fire Marshal and the chief deputy fire marshal and deputy state fire marshals appointed under ORS 476.040.

(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; and investigators of the Criminal Justice Division of the Department of Justice; 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 any city, county or district that employs police officers or firemen. [1971 c.692 §2; 1973 c.19 §2; 1979 c.656 §6]

237.620 Membership of police officers and firemen. (1) On or before July 1, 1973, all public employers of police officers and firemen who are not participants in the Public Employes' Retirement System shall become participants in the system with respect to the police officers and firemen employed by them.

(2) All police officers and firemen in the employ of the public employer on the date the public employer becomes a participant in the system under subsection (1) of this section shall establish membership under the six-month service requirement of ORS 237.011.

(3) The participation of the public employer in the system under this section shall apply to services of its employe police officers and firemen on and after the effective date of the public employer's participation in the system. The public employer also shall provide a prior service pension for its police officers and firemen, within the limitations of subsection (2) of ORS 237.081, for continuous service to the public employer for a period not exceeding 20 years before the effective date of the public employer's participation in the system.

(4) Notwithstanding subsections (1) and (2) of this section, if a public employer provides retirement benefits to its police officers and firemen which are equal to or better than the benefits which would be provided to them under the system, as determined at the expense of the public employer by the Public Employes' Retirement Board, the public employer shall not be required to participate in the system with respect to its police officers and firemen. This exemption shall continue to apply for only as long as the coverage remains substantially unchanged under ORS 237.001 to 237.315 but must be reexamined whenever substantial changes are made therein. [1971 c.692 §3; 1973 c.704 §16; 1975 c.449 §13]

237.630 Service-connected disability retirement allowance; election to receive; conversion to annuity. (1) A police officer or fire fighter, other than a volunteer fire fighter, who would be entitled to receive disability benefits as a member of the Public Employes' Retirement System under subsection (1) of ORS 237.171, may elect to receive the service-connected disability retirement allowance authorized under this section. The allowance authorized under this section is an amount equal to 50 percent of the police officer's or fire fighter's final average salary as determined at the date of the injury causing the disability. If elected, the allowance authorized under this section is in lieu of any service-connected disability retirement benefit available under ORS 237.001 to 237.315.

(2) The election to receive the benefits authorized under subsection (1) of this section shall be made within 90 days after the board makes its decision that the police officer or fire fighter is disabled. The election once made shall not be changed.

(3) A police officer or fire fighter electing to receive the benefits authorized under subsection (1) of this section may elect to convert those benefits to a service-connected disability retirement annuity of equivalent actuarial value as provided in ORS 237.181.

(4) Nothing in this section shall interfere with the right of a police officer or fire fighter to receive a disability retirement allowance under ORS 237.001 to 237.315 for disability not incurred in the line of duty. [1971 c.692 §4; 1975 c.449 §7]

237.640 Benefits payable to surviving spouse or child of police officer or fire fighter under system. (1) The surviving spouse or child of a police officer or fire fighter, who died a member of the Public Employes' Retirement System while retired either for service or disability and while receiving or being entitled to receive a benefit under ORS 237.630 or under ORS 237.001 to 237.315, is entitled to a benefit under this section. The benefit shall be equal to 25 percent of the unmodified retirement allowance the police officer or fire fighter was receiving or was entitled to receive at the time of his death under ORS 237.630 or under ORS 237.001 to 237.315. The benefit authorized by this section is in addition to any other benefit the surviving spouse or child is entitled to and is available to the child until he attains 18 years of age.

(2) For the purpose of this section, the unmodified retirement allowance is that allowance described in ORS 237.147, or if election to receive the benefits authorized under ORS 237.630 has been made, the unmodified retirement allowance is 50 percent of the final average salary of the police officer or fire fighter as determined on the date of the injury causing disability. [1971 c.692 §5; 1973 c.704 §17; 1975 c.449 §8]

LIQUIDATION OF PRE-1953 RETIREMENT SYSTEM

237.950 Pre-1953 Public Employes' Retirement System abolished. The Public Employes' Retirement System of the State of Oregon, established by chapter 401, Oregon Laws 1945, as amended, hereby is abolished, subject to the provisions of ORS 237.950 to 237.980. [1953 c.180 §2]

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

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

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

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

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

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

(7) Members of the board shall serve without compensation but shall be reimbursed for their necessary expenses incurred in the performance of their duties as such members. [1953 c.180 §9; 1953 c.521 §3]

237.956 Director and staff. The board shall employ a director whose duties shall be as hereinafter provided. All ministerial duties required in the administration of ORS 237.414 and 237.950 to 237.980 shall be performed by the director and by employes under his direction. The director shall hold his position during the pleasure of the board and shall furnish such bond as required by the board. The board shall also designate an employe to perform duties in the absence of the director. [1953 c.180 §10; 1973 c.704 §18]

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

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

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

(4) From the current service account of the State of Oregon in the Public Employes' Re-

tirement Fund there shall be transferred to the Social Security Revolving Account an amount of $60,000 which shall be recovered from the participating employers in the manner prescribed by ORS 237.520, and upon recovery shall be repaid to the Public Employes' Retirement Board. [1953 c.180 §3]

237.964 Collection of accrued liabilities. In order to liquidate accrued liabilities with respect to prior service credit and delinquent contributions, each public employer which at any time prior to March 27, 1953, has participated in the Public Employes' Retirement System shall continue to remit payments to the Public Employes' Retirement Board at the rate and in the time and manner prescribed by chapter 401, Oregon Laws 1945, as amended. The board shall have a right of action against any such public employer for the enforcement of the provisions of this section. [1953 c.180 §5]

237.968 Continuation of retirement benefits of certain members. The board shall pay all retirement benefits to which members of the Public Employes' Retirement System who retired prior to March 27, 1953, may be entitled under the provisions of chapter 401, Oregon Laws 1945, as amended, and shall give full recognition to all rights to which such members are entitled under said law. The board also shall determine and pay in accordance with the provisions of that law retirement benefits to which members of the Public Employes' Retirement System are entitled by the provisions of said law. [1953 c.180 §4]

237.972 Continuation of abolished system with regard to certain members. Notwithstanding any other provision of chapter 180, Oregon Laws 1953, chapter 401, Oregon Laws 1945, as amended, shall remain in full force and effect with respect to any employe of a public employer which heretofore withdrew from the Public Employes' Retirement System pursuant to subsection (5) of section 8 of said law, as amended by section 1, chapter 322, Oregon Laws 1951, who did not sign the petition for such withdrawal. Such employe shall be and remain a member of the Public Employes' Retirement System with full rights and benefits thereunder as if chapter 180, Oregon Laws 1953, had not been passed; and until the entire obligation of the public employer with respect to all such employes, as provided in chapter 401, Oregon Laws 1945, as amended, shall have been paid in full, such public employer shall continue to deduct from payrolls and transmit the contributions thereby required and make the matching contributions thereby required to the Public Employes' Retirement Board created by ORS 237.952 and such public employer shall remain liable to such Public Employes' Retirement Board for all contributions required by such law together with interest thereon at the legal rate from the date of any delinquency. [1953 c.180 §11]

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

(2) Each member of the Public Employes' Retirement System shall have the right to a refund of all contributions heretofore paid by him into the fund after deducting therefrom the amount herein specified for social security coverage, providing that within 60 days after March 27, 1953, he signs and files a written request therefor with the Public Employes' Retirement Board, in which event such contribution shall be paid to him by the Public Employes' Retirement Board as soon thereafter as practicable and in no case later than

October 1, 1953. The refund of all contributions paid by him, as by this section authorized, in the case of each applicant who receives such refund shall extinguish all his rights of membership in the Public Employes' Retirement System established by chapter 401, Oregon Laws 1945, including the right to claim credit for any time whatever spent in public employment prior to his receipt of such refund. Unless an employe shall have filed such request for refund within said 60 days the balance of his contributions remaining after such deduction, together with an equal amount contributed by his employer, and the contributions of his employers based on his prior service credit, shall be used to purchase retirement benefits for such employe in accordance with ORS 237.001 to 237.315. If, pending such disposition of employes' contributions, any employe should die, his accumulated contributions shall be paid as he shall have directed in writing. In the absence of such written direction, his accumulated contributions shall be paid in accordance with the provisions of chapter 401, Oregon Laws 1945, as amended.

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

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

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,
October 1, 1979.

Thomas G. Clifford
Legislative Counsel