

# Senate Bill 771

Sponsored by COMMITTEE ON RURAL COMMUNITIES AND ECONOMIC DEVELOPMENT

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows judge member of Public Employees Retirement System to designate more than one beneficiary to receive retirement benefits after judge's death.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to judge members of Public Employees Retirement System; amending ORS 238.565; and de-  
3 claring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 238.565 is amended to read:

6 238.565. (1) For the purposes of this section, [*the beneficiary of the judge member shall be any*  
7 *person, or the personal representative of the estate of the judge member, or a trustee named by the*  
8 *judge member to execute an express trust, whom the judge member designates as a beneficiary*] **a judge**  
9 **member may designate a beneficiary or beneficiaries** by written designation duly acknowledged  
10 and filed with the board before the death of the judge member. **Beneficiaries designated by a judge**  
11 **member may include any person, personal representative of the estate of the judge member**  
12 **or trustee named by the judge member to execute an express trust.**

13 (2)(a) If a judge member who has six or more years of service as a judge dies before retiring,  
14 and the judge member is not an inactive judge member who is performing a pro tem service obli-  
15 gation under the provisions of ORS 238.545 (4), the surviving spouse of the judge member shall re-  
16 ceive a life pension, payable monthly, equal to two-thirds of the service retirement allowance the  
17 judge member would have received under ORS 238.535 (1)(a) had the judge member retired on the  
18 date of death.

19 (b) If a judge member who has six or more years of service as a judge dies before retiring, and  
20 the judge member is an inactive member who is performing a pro tem service obligation under the  
21 provisions of ORS 238.545 (4), the surviving spouse of the judge member shall receive a life pension,  
22 payable monthly, equal to two-thirds of the service retirement allowance the judge member would  
23 have received under ORS 238.535 (1)(b) had the judge member retired on the date of death.

24 (c) If a surviving spouse receiving a pension under paragraph (a) or (b) of this subsection dies  
25 and the total amount received as pension by the surviving spouse is less than the amount credited  
26 to the member account of the judge member in the fund on the date of death of the judge member,  
27 the beneficiary **or beneficiaries** shall receive a lump sum amount equal to the difference between  
28 the total amount received by the surviving spouse and the amount so credited to the member ac-  
29 count of the judge member.

30 (d) If a judge member who has six or more years of service as a judge dies before retiring and  
31 has no surviving spouse, the beneficiary **or beneficiaries** shall receive a lump sum amount equal to

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 the amount credited to the member account of the judge member in the fund on the date of death  
2 of the judge member.

3 (e) If the surviving spouse of a judge member who dies before retiring is not entitled to a pen-  
4 sion under paragraph (a) or (b) of this subsection, the surviving spouse shall receive a lump sum  
5 amount equal to the amount credited to the member account of the judge member in the fund on the  
6 date of death of the judge member.

7 (3)(a) If a judge member dies after retiring, the surviving spouse of the judge member shall re-  
8 ceive a life pension, payable monthly, equal to two-thirds of the retirement allowance the judge  
9 member is receiving or is entitled to receive on the date of death.

10 (b) If a surviving spouse receiving a pension under paragraph (a) or (b) of this subsection dies  
11 and the total amount received as retirement allowance by the retired judge member and as pension  
12 by the surviving spouse is less than the amount credited to the member account of the judge member  
13 on the date of retirement of the judge member, the beneficiary **or beneficiaries** shall receive a lump  
14 sum amount equal to the difference between the total amount received as retirement allowance and  
15 pension and the amount so credited to the member account of the judge member.

16 (c) If a judge member dies after retiring and has no surviving spouse, and the total amount re-  
17 ceived as retirement allowance by the retired judge member is less than the amount credited to the  
18 member account of the judge member on the date of retirement of the judge member, the beneficiary  
19 **or beneficiaries** shall receive a lump sum amount equal to the difference between the total amount  
20 received as retirement allowance and the amount so credited to the member account of the judge  
21 member.

22 (4) At any time after becoming a judge member, but not later than the date on which the first  
23 payment on account of retirement is due, a judge member may elect to provide an addition to the  
24 pension of the surviving spouse of the judge member under subsection (3)(a) of this section by se-  
25 lecting a reduced retirement allowance for the judge member. The additional pension to the surviv-  
26 ing spouse shall be the actuarial equivalent of the reduction in the retirement allowance of the  
27 judge member and, in no event, when added to the pension under subsection (3)(a) of this section,  
28 shall it exceed the reduced retirement allowance elected by the judge member.

29 (5) Any accrued retirement allowance due a retired judge member that is unpaid at the time of  
30 death of the judge member shall be paid to the surviving spouse of the judge member. If there is no  
31 surviving spouse, the accrued retirement allowance shall be paid to the beneficiary **or beneficiaries**  
32 of the judge member. If there is no surviving spouse or beneficiary, the accrued retirement allow-  
33 ance shall be paid as provided in ORS 238.390 (2).

34 (6) Notwithstanding any other provision of this section, a judge member shall be considered to  
35 have died with no surviving spouse if:

36 (a) The judge member has entered into a prenuptial or antenuptial agreement with the spouse  
37 of the judge that provides that the spouse shall have no right or claim to a surviving spouse's pen-  
38 sion; and

39 (b) The judge member has filed a copy of the prenuptial or antenuptial agreement with the board  
40 before the death of the judge member.

41 (7) The board shall not be liable for any payment made to a beneficiary by reason of a prenuptial  
42 or antenuptial agreement filed with the board under subsection (6) of this section unless the board  
43 has actual knowledge that the agreement has been revoked.

44 (8) A judge member may elect to have all or part of the pension that is payable to a surviving  
45 spouse under this section be paid to a former spouse of the judge member. The election may be made

1 before or after the judge member retires. If a judge member makes an election under this subsection,  
2 the board shall pay the designated portion of pension to the former spouse for the life of the former  
3 spouse. If a judge member is married at the time an election is made under this subsection, the  
4 spouse of the judge member must give written consent to the election. An election under this sub-  
5 section does not affect the amount of any additional pension elected by a judge member under sub-  
6 section (4) of this section. If a judge member makes an election under this subsection and the judge  
7 member does not have a surviving spouse when the judge member dies, the former spouse shall re-  
8 ceive a life pension for only that part of the pension specified in the election. If a judge member  
9 makes an election under this subsection and the judge member has a surviving spouse when the  
10 judge member dies:

11 (a) The surviving spouse shall receive no benefit if the judge member elected to have the entire  
12 pension payable under this section paid to the former spouse; or

13 (b) The surviving spouse shall receive that part of the pension not paid to the former spouse  
14 until the death of the former spouse.

15 **SECTION 2. This 2013 Act being necessary for the immediate preservation of the public**  
16 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
17 **on its passage.**

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