

Enrolled Senate Bill 852

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CHAPTER

AN ACT

Relating to post-retirement death benefits under the Public Employees Retirement System; amending ORS 238.400, 238.405, 238A.190 and 238A.400.

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

SECTION 1. ORS 238A.400, as amended by section 9, chapter 75, Oregon Laws 2024, is amended to read:

238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS 238A.165, a member of the individual account program shall receive in a lump sum the amounts in the member's employee account, rollover account and employer account to the extent the member is vested in those accounts under ORS 238A.320.

(2) In lieu of a lump sum payment under subsection (1) of this section, a member of the individual account program may elect to receive the amounts in the member's employee account and employer account, to the extent the member is vested in those accounts under ORS 238A.320, in substantially equal installments paid over a period of 5, 10, 15 or 20 years, or over a period that is equal to the anticipated life span of the member as actuarially determined by the Public Employees Retirement Board. Installments may be made on a monthly, quarterly or annual basis. In no event may the period selected by the member exceed the time allowed by the minimum distribution requirements described in subsection (5) of this section. The board shall by rule establish the manner in which installments will be adjusted to reflect investment gains and losses on the unpaid balance during the payout period elected by the member under this subsection. The board by rule may establish minimum monthly amounts payable under this subsection. The board may require that a lump sum payment, or an installment schedule different than the schedules provided for in this subsection, be used to pay the vested amounts in the member's accounts if those amounts are not adequate to generate the minimum monthly amounts specified by the rule.

(3) A member of the individual account program electing to receive installments under subsection (2) of this section must designate a beneficiary or beneficiaries. In the event the member dies before all amounts in the employee and vested employer accounts are paid, *[all remaining installment payments shall be made]* **the remaining account balance shall be paid in a lump sum distribution** to the beneficiary or beneficiaries designated by the member. *[A beneficiary may elect to receive a lump sum distribution of the remaining amounts.]*

(4) A member who is entitled to receive retirement benefits under ORS chapter 238 may receive vested amounts in the member's employee account, rollover account and employer account in the

manner provided by this section when the member retires for service under the provisions of ORS chapter 238.

(5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a member of the individual account program must be distributed over a time period commencing no later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations implementing that section, as in effect on January 1, 2024. The board shall adopt rules implementing those minimum distribution requirements.

SECTION 2. ORS 238.405 is amended to read:

238.405. (1) The surviving spouse or child of a police officer or firefighter, who died a member of the Public Employees Retirement System while retired either for service or disability and while receiving or being entitled to receive a benefit under ORS 238.345 or under this chapter, 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 firefighter was receiving or was entitled to receive at the time of death under ORS 238.345 or under this chapter. 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 the child attains 18 years of age.

(2) For the purpose of this section, the unmodified retirement allowance is that allowance described in ORS 238.300, or if election to receive the benefits authorized under ORS 238.345 has been made, the unmodified retirement allowance is 50 percent of the final average salary of the police officer or firefighter as determined on the date of the injury causing disability.

(3) The board shall pay to a surviving spouse or child entitled to a benefit under this section a lump sum amount equal to the actuarial value of the allowance provided under this section if the allowance is less than [~~\$30~~] **\$200** per month. The lump sum amount shall be in lieu of the allowance provided for under this section.

SECTION 3. ORS 238A.190 is amended to read:

238A.190. (1) Before the effective date of retirement of a member of the pension program, the member may elect to convert the pension calculated under ORS 238A.180 or 238A.185 into the actuarial equivalent pension as follows:

(a) A pension payable monthly during the member's life and, after the death of the member, continuing at the same monthly amount for the life of a beneficiary named by the member in a written designation filed with the Public Employees Retirement Board at the time of election.

(b) A pension payable monthly during the member's life and, subject to modification under subsection (2) of this section, after the death of the member, continuing at the same monthly amount for the life of a beneficiary named by the member in a written designation filed with the board at the time of election.

(c) A pension payable monthly during the member's life and, after the death of the member, continuing at one-half of the monthly amount paid to the member for the life of a beneficiary named by the member in a written designation filed with the board at the time of election.

(d) A pension payable monthly during the member's life and, subject to modification under subsection (2) of this section, after the death of the member, continuing at one-half of the monthly amount paid to the member for the life of a beneficiary named by the member in a written designation filed with the board at the time of election.

(2) A retired member who elects to receive a pension under subsection (1)(b) or (d) of this section shall receive the pension that the member would have received on the effective date of retirement under ORS 238A.180 or 238A.185 adjusted by the actual amount of any cost-of-living or other post-retirement adjustments made to the original allowance since the effective date of retirement, if:

(a) The spouse or other beneficiary dies after the member retires; or

(b) The marriage relationship [*or other relationship*] with the beneficiary is terminated after the member retires.

(3) An increased benefit under subsection (2) of this section is first effective on the first day of the month following the date on which one of the events specified in subsection (2) of this section occurs.

(4) If a member of the pension program is married on the effective date of retirement, or there exists any other person on the effective date of retirement who is constitutionally required to be treated in the same manner as a spouse for the purpose of retirement benefits, the pension payable to the member shall be as provided in subsection (1)(c) of this section with the spouse or other person as beneficiary, unless:

(a) The member has selected a different pension provided for in subsection (1) of this section with the spouse or other person as beneficiary; or

(b) The member submits to the board a document signed by the spouse or other person, acknowledged by a notary public, consenting to a different option or a different beneficiary.

(5) Subsection (4) of this section does not apply to a pension benefit that is paid in a lump sum under ORS 238A.195.

SECTION 4. ORS 238.400 is amended to read:

238.400. *[If a person who is a member of the system, who has attained normal retirement age and who has retired from service, dies without making an election under ORS 238.305 and prior to the expiration of the time within which such an election could be made by the person, and the records of the Public Employees Retirement Board indicate that the person has designated the surviving spouse as the beneficiary under ORS 238.390 (1), such]* **If a member of the system, who has attained normal retirement age and has retired from service, dies prior to the expiration of the time an election could be made by the member to change the member's service retirement benefit option under ORS 238.305, and the records of the Public Employees Retirement Board indicate that the member's surviving spouse is the member's beneficiary under ORS 238.390, the 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 ORS 238.390 [(1)], or elect Option 2 or Option 3 under ORS 238.305 and designate self as the beneficiary thereunder with the same force and effect as if the election and designation had been properly made by the deceased member.**

Passed by Senate February 11, 2025

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House May 1, 2025

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Julie Fahey, Speaker of House

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

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Tobias Read, Secretary of State