

Enrolled House Bill 2286

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Public Employees Retirement System)

CHAPTER

AN ACT

Relating to deferred compensation; amending ORS 243.507.

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

SECTION 1. ORS 243.507 is amended to read:

243.507. (1) Notwithstanding any other provision of law, deferred compensation under a deferred compensation plan that would otherwise be paid by a public employer to an eligible employee shall be paid, in whole or in part, to an alternate payee if and to the extent expressly provided for in the terms of any judgment 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 judgment of annulment or dissolution of marriage or of separation. Any payment under this subsection to an alternate payee bars recovery by any other person.

(2) A judgment, order or agreement providing for payment to an alternate payee under subsection (1) of this section may also provide:

(a) That payments to the alternate payee may commence *[on]* **earlier than** the date the employee *[separates from service or at such later date as may be allowed]* **would be eligible to receive payments** under the provisions of the deferred compensation plan.

(b) That the alternate payee may elect to receive payment in any manner available to the employee under the deferred compensation plan, without regard to the form of payment elected by the employee.

(c) That the alternate payee's life is the measuring life for the purposes of measuring payments to the alternate payee under the form of payment selected by the alternate payee.

(d) That all or a portion of the deferred compensation account of the eligible employee be segregated in an account in the name of and for the benefit of the alternate payee, and that the alternate payee have the same rights and privileges as an eligible employee only concerning the investment or deposit of funds under the deferred compensation plan.

(3) Subsection (1) of this section applies only to payments of deferred compensation made after the date of receipt by the administrator of the deferred compensation plan of written notice of the judgment, order or agreement and such additional information and documentation as the plan administrator may prescribe.

(4)(a) Payment of all or any part of deferred compensation to an alternate payee *[under this section]* **who is a child or dependent of the employee** shall be reported for state and federal income tax purposes as payment to the eligible employee. Any amount required to be withheld for state or federal income tax purposes shall be withheld from the payment to the alternate payee.

(b) Payment of all or any part of deferred compensation to an alternate payee who is the spouse or former spouse of the employee shall be reported for state and federal income tax purposes as payment to the alternate payee. Any amount required to be withheld for state or federal income tax purposes shall be withheld from the payment to the alternate payee.

(5) If an eligible employee transfers from a deferred compensation plan of a public employer to a deferred compensation plan established by another public employer, the new employer is not required to accept as part of the transfer any portion of the eligible employee's account with the former employer that is subject to judgment, order or agreement requiring payment of that portion of the eligible employee's account to an alternate payee.

(6) If an eligible employee transfers from a deferred compensation plan of a public employer to a deferred compensation plan established by another public employer, the employee's previous employer shall not transfer to the plan established by the new employer any portion of the eligible employee's account that is subject to a judgment, order or agreement requiring payment of that portion of the eligible employee's account to an alternate payee.

(7) The Public Employees Retirement Board, or the plan administrator for any local government deferred compensation plan, may adopt rules, policies or other regulations for the purpose of maintaining compliance of a deferred compensation plan with section 457 of the Internal Revenue Code or any other provision of federal law that affects the tax qualification of a deferred compensation plan. Rules, policies or other regulations adopted under this subsection may vary from the express language of this section if the rules, policies or other regulations are required for the purpose of maintaining compliance of a deferred compensation plan with section 457 of the Internal Revenue Code or any other provision of federal law that affects the tax qualification of a deferred compensation plan.

(8) Any public employer or deferred compensation plan that is required by the provisions of this section to make a payment to an alternate payee shall charge and collect out of the deferred compensation payable to the eligible employee and the alternate payee actual and reasonable administrative expenses and related costs incurred by the public employer or deferred compensation plan in obtaining data and making calculations that are necessary by reason of the provisions of this section. A public employer or deferred compensation plan may not charge more than \$300 for total administrative expenses and related costs incurred in obtaining data or making calculations that are necessary by reason of the provisions of this section. A public employer or deferred compensation plan that charges and collects administrative expenses and related costs under the provisions of this subsection shall allocate those expenses and costs between the eligible employee and the alternate payee based on the fraction of the benefit received by the member or alternate payee.

(9) As used in this section:

(a) "Alternate payee" means a spouse, former spouse, child or other dependent of a member.

(b) "Court" means any court of appropriate jurisdiction of this or any other state or of the District of Columbia.

(c) "Eligible employee" means a state plan participant or local plan participant.

(d) "Public employer" means the state or a local government that establishes a deferred compensation plan.

Passed by House February 26, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate March 28, 2007

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President of Senate

Received by Governor:

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Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State