

A-Engrossed
Senate Bill 872

Ordered by the Senate May 2
Including Senate Amendments dated May 2

Sponsored by Senator BROWN; Representative BRUUN

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.

[Provides that judgment, order or settlement in divorce, annulment or separation proceeding may designate former spouse of judge member of Public Employees Retirement System as alternate payee of member if marriage lasted for at least one year. Provides that judgment, order or settlement may provide that former spouse receive benefits payable to surviving spouse of judge member if former spouse survives judge member.]

[Provides that judgment, order or settlement in divorce, annulment or separation proceeding may change beneficiary designated by judge member.]

Provides that judge member of Public Employees Retirement System may elect to have all or part of pension payable to surviving spouse be paid to former spouse of judge member. Establishes conditions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to judges' retirement; amending ORS 238.565; and declaring an emergency.

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

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

5 238.565. (1) For the purposes of this section, the beneficiary of the judge member shall be any
6 person, or the personal representative of the estate of the judge member, or a trustee named by the
7 judge member to execute an express trust, whom the judge member designates as a beneficiary by
8 written designation duly acknowledged and filed with the board before the death of the judge mem-
9 ber.

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

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

21 (c) If a surviving spouse receiving a pension under paragraph (a) or (b) of this subsection dies
22 and the total amount received as pension by the surviving spouse is less than the amount credited
23 to the member account of the judge member in the fund on the date of death of the judge member,

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 beneficiary shall receive a lump sum amount equal to the difference between the total amount
2 received by the surviving spouse and the amount so credited to the member account of the judge
3 member.

4 (d) If a judge member who has six or more years of service as a judge dies before retiring and
5 has no surviving spouse, the beneficiary shall receive a lump sum amount equal to the amount
6 credited to the member account of the judge member in the fund on the date of death of the judge
7 member.

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

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

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

21 (c) If a judge member dies after retiring and has no surviving spouse, and the total amount re-
22 ceived as retirement allowance by the retired judge member is less than the amount credited to the
23 member account of the judge member on the date of retirement of the judge member, the beneficiary
24 shall receive a lump sum amount equal to the difference between the total amount received as re-
25 tirement allowance and the amount so credited to the member account of the judge member.

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

33 (5) Any accrued retirement allowance due a retired judge member that is unpaid at the time of
34 death of the judge member shall be paid to the surviving spouse of the judge member. If there is no
35 surviving spouse, the accrued retirement allowance shall be paid to the beneficiary of the judge
36 member. If there is no surviving spouse or beneficiary, the accrued retirement allowance shall be
37 paid as provided in ORS 238.390 (2).

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

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

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

45 (7) The board shall not be liable for any payment made to a beneficiary by reason of a prenuptial

1 or antenuptial agreement filed with the board under subsection (6) of this section unless the board
2 has actual knowledge that the agreement has been revoked.

3 **(8) A judge member may elect to have all or part of the pension that is payable to a**
4 **surviving spouse under this section be paid to a former spouse of the judge member. The**
5 **election may be made before or after the judge member retires. If a judge member makes**
6 **an election under this subsection, the board shall pay the designated portion of pension to**
7 **the former spouse for the life of the former spouse. If a judge member is married at the time**
8 **an election is made under this subsection, the spouse of the judge member must give written**
9 **consent to the election. An election under this subsection does not affect the amount of any**
10 **additional pension elected by a judge member under subsection (4) of this section. If a judge**
11 **member makes an election under this subsection and the judge member does not have a**
12 **surviving spouse when the judge member dies, the former spouse shall receive a life pension**
13 **for only that part of the pension specified in the election. If a judge member makes an**
14 **election under this subsection and the judge member has a surviving spouse when the judge**
15 **member dies:**

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

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

20 **SECTION 2. This 2007 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
22 **on its passage.**