

D R A F T

SUMMARY

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; amend-
3 ing ORS 238.565; and declaring 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*
7 *member shall be any person, or the personal representative of the estate of the*
8 *judge member, or a trustee named by the judge member to execute an express*
9 *trust, whom the judge member designates as a beneficiary*] **a judge member**
10 **may designate a beneficiary or beneficiaries** by written designation duly
11 acknowledged and filed with the board before the death of the judge member.
12 **Beneficiaries designated by a judge member may include any person,**
13 **personal representative of the estate of the judge member or trustee**
14 **named by the judge member to execute an express trust.**

15 (2)(a) If a judge member who has six or more years of service as a judge
16 dies before retiring, and the judge member is not an inactive judge member
17 who is performing a pro tem service obligation under the provisions of ORS
18 238.545 (4), the surviving spouse of the judge member shall receive a life
19 pension, payable monthly, equal to two-thirds of the service retirement al-
20 lowance the judge member would have received under ORS 238.535 (1)(a) had

1 the judge member retired on the date of death.

2 (b) If a judge member who has six or more years of service as a judge dies
3 before retiring, and the judge member is an inactive member who is per-
4 forming a pro tem service obligation under the provisions of ORS 238.545 (4),
5 the surviving spouse of the judge member shall receive a life pension, paya-
6 ble monthly, equal to two-thirds of the service retirement allowance the
7 judge member would have received under ORS 238.535 (1)(b) had the judge
8 member retired on the date of death.

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

16 (d) If a judge member who has six or more years of service as a judge dies
17 before retiring and has no surviving spouse, the beneficiary **or beneficiaries**
18 shall receive a lump sum amount equal to the amount credited to the member
19 account of the judge member in the fund on the date of death of the judge
20 member.

21 (e) If the surviving spouse of a judge member who dies before retiring is
22 not entitled to a pension under paragraph (a) or (b) of this subsection, the
23 surviving spouse shall receive a lump sum amount equal to the amount
24 credited to the member account of the judge member in the fund on the date
25 of death of the judge member.

26 (3)(a) If a judge member dies after retiring, the surviving spouse of the
27 judge member shall receive a life pension, payable monthly, equal to two-
28 thirds of the retirement allowance the judge member is receiving or is enti-
29 tled to receive on the date of death.

30 (b) If a surviving spouse receiving a pension under paragraph (a) or (b)
31 of this subsection dies and the total amount received as retirement allowance

1 by the retired judge member and as pension by the surviving spouse is less
2 than the amount credited to the member account of the judge member on the
3 date of retirement of the judge member, the beneficiary **or beneficiaries**
4 shall receive a lump sum amount equal to the difference between the total
5 amount received as retirement allowance and pension and the amount so
6 credited to the member account of the judge member.

7 (c) If a judge member dies after retiring and has no surviving spouse, and
8 the total amount received as retirement allowance by the retired judge
9 member is less than the amount credited to the member account of the judge
10 member on the date of retirement of the judge member, the beneficiary **or**
11 **beneficiaries** shall receive a lump sum amount equal to the difference be-
12 tween the total amount received as retirement allowance and the amount so
13 credited to the member account of the judge member.

14 (4) At any time after becoming a judge member, but not later than the
15 date on which the first payment on account of retirement is due, a judge
16 member may elect to provide an addition to the pension of the surviving
17 spouse of the judge member under subsection (3)(a) of this section by se-
18 lecting a reduced retirement allowance for the judge member. The additional
19 pension to the surviving spouse shall be the actuarial equivalent of the re-
20 duction in the retirement allowance of the judge member and, in no event,
21 when added to the pension under subsection (3)(a) of this section, shall it
22 exceed the reduced retirement allowance elected by the judge member.

23 (5) Any accrued retirement allowance due a retired judge member that is
24 unpaid at the time of death of the judge member shall be paid to the sur-
25 viving spouse of the judge member. If there is no surviving spouse, the ac-
26 crued retirement allowance shall be paid to the beneficiary **or beneficiaries**
27 of the judge member. If there is no surviving spouse or beneficiary, the ac-
28 crued retirement allowance shall be paid as provided in ORS 238.390 (2).

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

31 (a) The judge member has entered into a prenuptial or antenuptial

1 agreement with the spouse of the judge that provides that the spouse shall
2 have no right or claim to a surviving spouse's pension; and

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

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

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

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

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

29 **SECTION 2. This 2013 Act being necessary for the immediate pres-**
30 **ervation of the public peace, health and safety, an emergency is de-**
31 **clared to exist, and this 2013 Act takes effect on its passage.**

