SENATE AMENDMENTS TO
SENATE BILL 370

By COMMITTEE ON JUDICIARY

April 21

1   On page 1 of the printed bill, line 3, after "237.600," insert "237.620,".

2   Delete lines 5 through 29.

3   On page 2, delete lines 1 through 5 and insert:

4   "**SECTION 1.** ORS 238A.230, as amended by section 5, chapter 52, Oregon Laws 2014, is

5 amended to read:

6   "238A.230. (1) If a member of the pension program who is vested dies before the member's ef-

7 fective date of retirement, the Public Employees Retirement Board shall pay the death benefit pro-

8 vided for in this section to**:**

9   **"(a)** The spouse of the member [*or*] to **the extent not provided to a former spouse in ac-**

10 **cordance with a judgment or order under ORS 238.465;**

11   **"(b) The former spouse of the member as provided in a judgment or order under ORS**

12 **238.465; or**

13   **"(c)** Any other person who is constitutionally required to be treated in the same manner as a

14 spouse for the purpose of retirement benefits.

15   "(2)(a) The death benefit to be paid under this section shall be for the life of the spouse**, former**

16 **spouse** or other person who is constitutionally required to be treated in the same manner as a

17 spouse, and shall be the actuarial equivalent of 50 percent of the pension that would otherwise have

18 been paid to the deceased member.

19   "(b) For the purpose of paragraph (a) of this subsection, the amount of the pension that would

20 otherwise have been paid to the deceased member shall be calculated:

21   "(A) As of the date of death if the member dies after the earliest retirement date for the member

22 under ORS 238A.165; or

23   "(B) As if the member became an inactive member on the date of death and thereafter retired

24 at the earliest retirement date if the member dies before the earliest retirement date for the member

25 under ORS 238A.165.

26   "(3) The death benefit provided under this section is first effective on the first day of the month

27 following the date of death of the member. The surviving spouse**, former spouse** or other person

28 entitled to the death benefit may elect to delay payment of the death benefit, but payment must

29 commence no later than December 31 of the calendar year in which the member would have reached

30 70-1/2 years of age.

31   "(4) Notwithstanding any other provision of ORS 238A.100 to 238A.250, distributions of death

32 benefits under the pension program must comply with the minimum distribution requirements of 26

33 U.S.C. 401(a)(9) and the regulations implementing that section, as in effect on December 31, 2013.

34 The board shall adopt rules implementing those minimum distribution requirements.".

35   In line 15, before "value" insert "actuarial".

1   In line 16, after "receive" insert "if the annulment or dissolution of marriage or separation had

2   not occurred".

3   On page 4, line 24, before "value" insert "actuarial".

4   In line 26, after "receive" insert "if the annulment or dissolution of marriage or separation had

5   not occurred".

6   Delete lines 44 and 45.

7   On page 5, delete lines 1 and 2 and insert:

8   "(d) That death benefits to which the alternate payee has been entitled as the spouse of a

9   member shall be available to the alternate payee after the effective date of the judgment of

10   annulment or dissolution of marriage or of separation.".

11   After line 39, insert:

12   "**SECTION 4.** ORS 237.620 is amended to read:

13   "237.620. (1) Except as provided in this section, all public employers of police officers or fire-

14   fighters shall provide retirement benefits to those employees under the Public Employees Retirement

15   System.

16   "(2) Notwithstanding subsection (1) of this section, a public employer of police officers or fire-

17   fighters need not provide retirement benefits to those employees under the Public Employees Re-

18   tirement System if the Public Employees Retirement Board determines that the public employer

19   provides retirement benefits to each of the following classes of employees that are equal to or better

20   than the retirement benefits that would be provided to the equivalent classes of employees under the

21   Public Employees Retirement System:

22   "(a) Police officers or firefighters who are entitled to receive benefits only under ORS chapter

23   238 and who established membership in the system before January 1, 1996, as described in ORS

24   238.430 (2);

25   "(b) Police officers or firefighters who are entitled to receive benefits only under ORS chapter

26   238 and who established membership in the system on or after January 1, 1996, and before August

27   29, 2003, as described in ORS 238A.025 (4); and

28   "(c) Police officers or firefighters who establish membership in the system on or after August

29   29, 2003, and are entitled to benefits only under the Oregon Public Service Retirement Plan.

30   "**(3) A public employer that provides retirement benefits under subsection (2) of this**

31   **section must provide that:**

32   "**(a) If an employee to whom the public employer provides retirement benefits dies before**

33   **the employee's effective date of retirement, a former spouse of the employee is entitled to**

34   **a death benefit if and to the extent provided for in the terms of any judgment of annulment**

35   **or dissolution of marriage or of separation, or the terms of any court order or court-**

36   **approved property settlement agreement incident to any judgment of annulment or dissol-**

37   **ution of marriage or of separation, as if the former spouse were the surviving spouse of the**

38   **employee, as provided in ORS 237.600.**

39   "**(b) If an employee to whom the public employer provides retirement benefits dies before**

40   **the employee's effective date of retirement and has a dependent child who is not supported**

41   **by the former spouse who is treated as the surviving spouse under paragraph (a) of this**

42   **subsection, the dependent child is entitled to a death benefit.**

43   "**(4) Notwithstanding subsection (3) of this section, a former spouse or dependent child**

44   **of an employee is not entitled to a death benefit if, before the death of the employee, the**

45   **former spouse or dependent child has commenced receiving a retirement benefit provided for**

1 **in the terms of any judgment of annulment or dissolution of marriage or of separation, or**
2 **the terms of any court order or court-approved property settlement agreement incident to**
3 **any judgment of annulment or dissolution of marriage or of separation, as provided in ORS**
4 **237.600.**

5 "[*(3)*] **(5)** At such times as may be established by board rule, the Public Employees Retirement
6 Board shall review the retirement benefits provided by a public employer of police officers or fire-
7 fighters that does not provide retirement benefits for those employees under the Public Employees
8 Retirement System. The review must be conducted at the expense of the public employer. Based
9 on the review, the board shall determine whether the public employer complies with the require-
10 ments of subsection (2) of this section. If the board determines that the public employer does not
11 comply with the requirements of subsection (2) of this section for any class of employees described
12 in subsection (2) of this section, the public employer must provide that class of employees with re-
13 tirement benefits adequate to meet the requirements of subsection (2) of this section. If the public
14 employer fails to provide those benefits, any employee within the class may bring an action in cir-
15 cuit court to compel compliance with the requirements of this section.

16 "**SECTION 5. The amendments to ORS 237.620 by section 4 of this 2015 Act do not affect**
17 **any collective bargaining agreement entered into before the effective date of this 2015 Act.**
18 **Any collective bargaining agreement entered into on or after the effective date of this 2015**
19 **Act must comply with ORS 237.620 as amended by section 4 of this 2015 Act.**".

20 In line 40, delete "4." and insert "6. (1)".

21 In line 41, delete "that accrue on behalf".

22 After line 42, insert:

23 "(2) The amendments to ORS 237.620 by section 4 of this 2015 Act apply only to employees to
24 whom a public employer provides retirement benefits under ORS 237.620 (2) who die on or after the
25 effective date of this 2015 Act.".

26 In line 43, delete "5" and insert "7".

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