

**PROPOSED AMENDMENTS TO
SENATE BILL 370**

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
5 Laws 2014, is amended to read:

6 “238A.230. (1) If a member of the pension program who is vested dies be-
7 fore the member’s effective date of retirement, the Public Employees Retire-
8 ment Board shall pay the death benefit provided for in this section to:

9 **“(a)** The spouse of the member [or] to **the extent not provided to a**
10 **former spouse in accordance with a judgment or order under ORS**
11 **238.465;**

12 **“(b)** The former spouse of the member as provided in a judgment
13 **or order under ORS 238.465; or**

14 **“(c)** Any other person who is constitutionally required to be treated in
15 the same manner as a spouse for the purpose of retirement benefits.

16 **“(2)(a)** The death benefit to be paid under this section shall be for the life
17 of the spouse, **former spouse** or other person who is constitutionally re-
18 quired to be treated in the same manner as a spouse, and shall be the
19 actuarial equivalent of 50 percent of the pension that would otherwise have
20 been paid to the deceased member.

21 **“(b)** For the purpose of paragraph (a) of this subsection, the amount of
22 the pension that would otherwise have been paid to the deceased member

1 shall be calculated:

2 “(A) As of the date of death if the member dies after the earliest retire-
3 ment date for the member under ORS 238A.165; or

4 “(B) As if the member became an inactive member on the date of death
5 and thereafter retired at the earliest retirement date if the member dies be-
6 fore the earliest retirement date for the member under ORS 238A.165.

7 “(3) The death benefit provided under this section is first effective on the
8 first day of the month following the date of death of the member. The sur-
9 viving spouse, **former spouse** or other person entitled to the death benefit
10 may elect to delay payment of the death benefit, but payment must commence
11 no later than December 31 of the calendar year in which the member would
12 have reached 70-1/2 years of age.

13 “(4) Notwithstanding any other provision of ORS 238A.100 to 238A.250,
14 distributions of death benefits under the pension program must comply with
15 the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regu-
16 lations implementing that section, as in effect on December 31, 2013. The
17 board shall adopt rules implementing those minimum distribution require-
18 ments.”.

19 In line 15, before “value” insert “actuarial”.

20 In line 16, after “receive” insert “if the annulment or dissolution of mar-
21 riage or separation had not occurred”.

22 On page 4, line 24, before “value” insert “actuarial”.

23 In line 26, after “receive” insert “if the annulment or dissolution of mar-
24 riage or separation had not occurred”.

25 Delete lines 44 and 45.

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

27 “(d) That death benefits to which the alternate payee has been entitled
28 as the spouse of a member shall be available to the alternate payee after the
29 effective date of the judgment of annulment or dissolution of marriage or of
30 separation.”.

1 After line 39, insert:

2 **“SECTION 4.** ORS 237.620 is amended to read:

3 “237.620. (1) Except as provided in this section, all public employers of
4 police officers or firefighters shall provide retirement benefits to those em-
5 ployees under the Public Employees Retirement System.

6 “(2) Notwithstanding subsection (1) of this section, a public employer of
7 police officers or firefighters need not provide retirement benefits to those
8 employees under the Public Employees Retirement System if the Public Em-
9 ployees Retirement Board determines that the public employer provides re-
10 tirement benefits to each of the following classes of employees that are equal
11 to or better than the retirement benefits that would be provided to the
12 equivalent classes of employees under the Public Employees Retirement
13 System:

14 “(a) Police officers or firefighters who are entitled to receive benefits only
15 under ORS chapter 238 and who established membership in the system before
16 January 1, 1996, as described in ORS 238.430 (2);

17 “(b) Police officers or firefighters who are entitled to receive benefits only
18 under ORS chapter 238 and who established membership in the system on
19 or after January 1, 1996, and before August 29, 2003, as described in ORS
20 238A.025 (4); and

21 “(c) Police officers or firefighters who establish membership in the system
22 on or after August 29, 2003, and are entitled to benefits only under the
23 Oregon Public Service Retirement Plan.

24 **“(3) A public employer that provides retirement benefits under
25 subsection (2) of this section must provide that:**

26 **“(a) If an employee to whom the public employer provides retire-
27 ment benefits dies before the employee’s effective date of retirement,
28 a former spouse of the employee is entitled to a death benefit if and
29 to the extent provided for in the terms of any judgment of annulment
30 or dissolution of marriage or of separation, or the terms of any court**

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

5 **“(b) If an employee to whom the public employer provides retire-**
6 **ment benefits dies before the employee’s effective date of retirement**
7 **and has a dependent child who is not supported by the former spouse**
8 **who is treated as the surviving spouse under paragraph (a) of this**
9 **subsection, the dependent child is entitled to a death benefit.**

10 **“(4) Notwithstanding subsection (3) of this section, a former spouse**
11 **or dependent child of an employee is not entitled to a death benefit if,**
12 **before the death of the employee, the former spouse or dependent child**
13 **has commenced receiving a retirement benefit provided for in the**
14 **terms of any judgment of annulment or dissolution of marriage or of**
15 **separation, or the terms of any court order or court-approved property**
16 **settlement agreement incident to any judgment of annulment or dis-**
17 **solution of marriage or of separation, as provided in ORS 237.600.**

18 **“[(3)] (5) At such times as may be established by board rule, the Public**
19 **Employees Retirement Board shall review the retirement benefits provided**
20 **by a public employer of police officers or firefighters that does not provide**
21 **retirement benefits for those employees under the Public Employees Retire-**
22 **ment System. The review must be conducted at the expense of the public**
23 **employer. Based on the review, the board shall determine whether the public**
24 **employer complies with the requirements of subsection (2) of this section. If**
25 **the board determines that the public employer does not comply with the re-**
26 **quirements of subsection (2) of this section for any class of employees de-**
27 **scribed in subsection (2) of this section, the public employer must provide**
28 **that class of employees with retirement benefits adequate to meet the re-**
29 **quirements of subsection (2) of this section. If the public employer fails to**
30 **provide those benefits, any employee within the class may bring an action**

1 in circuit court to compel compliance with the requirements of this section.

2 **“SECTION 5. The amendments to ORS 237.620 by section 4 of this**
3 **2015 Act do not affect any collective bargaining agreement entered into**
4 **before the effective date of this 2015 Act. Any collective bargaining**
5 **agreement entered into on or after the effective date of this 2015 Act**
6 **must comply with ORS 237.620 as amended by section 4 of this 2015**
7 **Act.”.**

8 In line 40, delete “4.” and insert “6. (1)”.

9 In line 41, delete “that accrue on behalf”.

10 After line 42, insert:

11 “(2) The amendments to ORS 237.620 by section 4 of this 2015 Act apply
12 only to employees to whom a public employer provides retirement benefits
13 under ORS 237.620 (2) who die on or after the effective date of this 2015
14 Act.”.

15 In line 43, delete “5” and insert “7”.

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