

Senate Bill 309

Sponsored by Senators KNOPP, JOHNSON (Pre-session filed.)

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 **as introduced**.

Eliminates option of members of individual account program of Public Employees Retirement System to receive distributions as installment payments upon retirement. Requires members retiring on or after January 1, 2019, to receive distributions as lump sum.

A BILL FOR AN ACT

1
2 Relating to distributions under the individual account program of the Public Employees Retirement
3 System; creating new provisions; and amending ORS 238.465, 238A.400 and 238A.410.

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

5 **SECTION 1.** ORS 238A.400, as amended by section 8, chapter 33, Oregon Laws 2016, is amended
6 to read:

7 238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS
8 238A.165, a member of the individual account program shall receive in a lump sum the amounts in
9 the member's employee account, rollover account and employer account to the extent the member
10 is vested in those accounts under ORS 238A.320.

11 *[(2) In lieu of a lump sum payment under subsection (1) of this section, a member of the individual*
12 *account program may elect to receive the amounts in the member's employee account and employer ac-*
13 *count, to the extent the member is vested in those accounts under ORS 238A.320, in substantially equal*
14 *installments paid over a period of 5, 10, 15 or 20 years, or over a period that is equal to the anticipated*
15 *life span of the member as actuarially determined by the Public Employees Retirement Board. Install-*
16 *ments may be made on a monthly, quarterly or annual basis. In no event may the period selected by*
17 *the member exceed the time allowed by the minimum distribution requirements described in subsection*
18 *(5) of this section. The board shall by rule establish the manner in which installments will be adjusted*
19 *to reflect investment gains and losses on the unpaid balance during the payout period elected by the*
20 *member under this subsection. The board by rule may establish minimum monthly amounts payable*
21 *under this subsection. The board may require that a lump sum payment, or an installment schedule*
22 *different than the schedules provided for in this subsection, be used to pay the vested amounts in the*
23 *member's accounts if those amounts are not adequate to generate the minimum monthly amounts spec-*
24 *ified by the rule.]*

25 *[(3) A member of the individual account program electing to receive installments under subsection*
26 *(2) of this section must designate a beneficiary or beneficiaries. In the event the member dies before all*
27 *amounts in the employee and vested employer accounts are paid, all remaining installment payments*
28 *shall be made to the beneficiary or beneficiaries designated by the member. A beneficiary may elect*
29 *to receive a lump sum distribution of the remaining amounts.]*

30 *[(4)]* **(2)** A member who is entitled to receive retirement benefits under ORS chapter 238 may
31 receive vested amounts in the member's employee account, rollover account and employer account

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 in the manner provided by this section when the member retires for service under the provisions
2 of ORS chapter 238.

3 [(5)] (3) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest
4 of a member of the individual account program must be distributed over a time period commencing
5 no later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a
6 manner that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regu-
7 lations implementing that section, as in effect on December 31, 2015. The **Public Employees Re-**
8 **irement** Board shall adopt rules implementing those minimum distribution requirements.

9 **SECTION 2.** ORS 238.465 is amended to read:

10 238.465. (1) Notwithstanding ORS 238.445 or any other provision of law, payments under this
11 chapter or ORS chapter 238A of any pension, annuity, retirement allowance, disability benefit, death
12 benefit, refund benefit or other benefit that would otherwise be made to a person entitled thereto
13 under this chapter or ORS chapter 238A shall be paid, in whole or in part, by the Public Employees
14 Retirement Board to an alternate payee if and to the extent expressly provided for in the terms of
15 any judgment of annulment or dissolution of marriage or of separation, or the terms of any court
16 order or court-approved property settlement agreement incident to any judgment of annulment or
17 dissolution of marriage or of separation. Except as provided in subsection (5) of this section, the
18 total actuarial value of benefits payable to a member and to an alternate payee under this section
19 may not be greater than the value of the benefits the member would otherwise be eligible to receive
20 if the annulment or dissolution of marriage or separation had not occurred. Any payment under this
21 subsection to an alternate payee bars recovery by any other person.

22 (2) A judgment, order or settlement providing for payment to an alternate payee under sub-
23 section (1) of this section may also provide:

24 (a) That payments to the alternate payee may commence, at the election of the alternate payee,
25 at any time after the earlier of:

26 (A) The earliest date the member would be eligible to receive retirement benefits if the member
27 separates from service; or

28 (B) The date the member actually separates from service due to death, disability, retirement or
29 termination of employment.

30 (b) That the alternate payee may elect to receive payment in any form of pension, annuity, re-
31 tirement allowance, disability benefit, death benefit, refund benefit or other benefit, except a benefit
32 in the form of a joint and survivor annuity, that would be available to the member under this
33 chapter or ORS chapter 238A, or that would be available to the member if the member retired or
34 separated from service at the time of election by the alternate payee, without regard to the form
35 of benefit elected by the member.

36 (c) That the alternate payee's life is the measuring life for the purpose of measuring payments
37 to the alternate payee under the form of benefit selected by the alternate payee and for the purpose
38 of determining necessary employer reserves.

39 (d) Except as provided in ORS 238.305 (10) and 238.325 (7), that any person designated by the
40 member as a beneficiary under ORS 238.300, 238.305, 238.325[,] **or** 238A.190 [*or 238A.400*] be changed,
41 even though the member has retired and has begun receiving a retirement allowance or pension. If
42 a change of beneficiary is ordered under this paragraph, the board shall adjust the anticipated
43 benefits that would be payable to the member and the beneficiary to ensure that the cost to the
44 system of providing benefits to the member and the new beneficiary does not exceed the cost that
45 the system would have incurred to provide benefits to the member and the original beneficiary. The

1 judgment, order or settlement may not provide for any change to the option selected by the retired
2 member under ORS 238.300, 238.305, 238.320, 238.325[,] **or** 238A.190 [*or* 238A.400] as to the form of
3 the retirement benefit.

4 (e) That death benefits under ORS 238A.230 to which the alternate payee has been entitled as
5 the spouse of a member shall be available to the alternate payee after the effective date of the
6 judgment of annulment or dissolution of marriage or of separation.

7 (3) The board shall adopt rules that provide for:

8 (a) The creation of a separate account in the name of the alternate payee reflecting the
9 judgment's, order's or agreement's distribution of the member's benefits under this chapter or ORS
10 chapter 238A;

11 (b) The establishing of criteria to determine whether domestic relations judgments, orders and
12 agreements comply with this section; and

13 (c) The definitions and procedures for the administration of this section.

14 (4) An alternate payee may designate a beneficiary for the purposes of death benefits payable
15 under ORS 238.390 and 238.395. Subject to ORS 238A.410 (2), an alternate payee may designate a
16 beneficiary for the purposes of death benefits payable under ORS 238A.410. If the alternate payee
17 fails to designate a beneficiary for the purposes of death benefits payable under ORS 238.390 and
18 238.395, the benefits shall be paid as provided by ORS 238.390 (2). If the alternate payee fails to
19 designate a beneficiary for the purposes of death benefits payable under ORS 238A.410, the benefits
20 shall be paid as provided by ORS 238A.410 (3). If a judgment, order or agreement awards an interest
21 to an alternate payee, and if the alternate payee predeceases the member before the alternate payee
22 has commenced receiving benefits, the alternate payee shall be considered a member of the system
23 who died before retiring for the purposes of the death benefits provided in ORS 238.390, 238.395,
24 238A.230 and 238A.410, but for purposes of the death benefits provided in ORS 238.395, the alternate
25 payee shall be considered a member of the system who died before retiring only if the member would
26 have been eligible for death benefits under ORS 238.395 had the member died at the same time as
27 the alternate payee. Payment of the death benefits to the beneficiaries, estate or other persons en-
28 titled to receive the benefits under ORS 238.390, 238.395, 238A.230 and 238A.410, shall constitute
29 payment in full of the alternate payee's interest under the judgment, order or agreement.

30 (5) Any increase in the retirement allowance provided to the member shall increase the amounts
31 paid to the alternate payee in the same proportion, except that:

32 (a) An alternate payee is not entitled to receive cost-of-living adjustments under ORS 238.360
33 or any other retirement allowance increase until benefits are first paid from the system on behalf
34 of the member; and

35 (b) Cost-of-living adjustments under ORS 238.360 or 238A.210 to the retirement allowance paid
36 to an alternate payee shall be calculated on the basis of the amount of the alternate payee's yearly
37 allowance or yearly pension or benefit, as those terms are defined in ORS 238.360 and 238A.210.

38 (6) An alternate payee under this section is not eligible to receive the benefits provided under
39 ORS 238.410, 238.415, 238.420 and 238.440 by reason of the provisions of this section.

40 (7) An alternate payee who elects to begin receiving payments under subsection (1) of this sec-
41 tion before the member's effective date of retirement is not eligible to receive any additional pay-
42 ment by reason of credit in the system acquired by the member after the alternate payee begins to
43 receive payments.

44 (8) Subsection (1) of this section applies only to payments made by the board after the date of
45 receipt by the board of written notice of the judgment, order or agreement and such additional in-

1 formation and documentation as the board may prescribe.

2 (9) Whenever the board is required to make payment to an alternate payee under the provisions
 3 of this section, the board shall charge and collect out of the benefits payable to the member and the
 4 alternate payee actual and reasonable administrative expenses and related costs incurred by the
 5 board in obtaining data and making calculations that are necessary by reason of the provisions of
 6 this section. The board may not charge more than \$300 for total administrative expenses and related
 7 costs incurred in obtaining data or making calculations that are necessary by reason of the pro-
 8 visions of this section. The board shall allocate expenses and costs charged under the provisions of
 9 this subsection between the member and the alternate payee based on the fraction of the benefit
 10 received by the member or alternate payee.

11 (10) Unless otherwise provided by the judgment, order or agreement, a member has no interest
 12 in the benefit payable to an alternate payee under this section. Upon the death of an alternate
 13 payee, the board shall make such payment to the beneficiary designated by the alternate payee as
 14 may be required under the form of benefit elected by the alternate payee. If a death benefit is pay-
 15 able under ORS 238.390 or 238.395 by reason of the death of an alternate payee, payment of the
 16 death benefit shall be made to the beneficiary designated by the alternate payee under ORS 238.390
 17 (1), or as otherwise provided by ORS 238.390 and 238.395.

18 (11) As used in this section, "court" means any court of appropriate jurisdiction of this or any
 19 other state or of the District of Columbia.

20 **SECTION 3.** ORS 238A.410, as amended by section 9, chapter 33, Oregon Laws 2016, is amended
 21 to read:

22 238A.410. (1) If a member of the individual account program dies before retirement, the amounts
 23 in the member's employee account, rollover account and employer account, to the extent the member
 24 is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary or
 25 beneficiaries designated by the member for the purposes of this section.

26 (2) If a member of the individual account program is married at the time of death, or there exists
 27 at the time of death any other person who is constitutionally required to be treated in the same
 28 manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the
 29 beneficiary for purposes of the death benefit payable under this section unless the spouse or other
 30 person consents to the designation of a different beneficiary or beneficiaries before the designation
 31 has been made and the consent has not been revoked by the spouse or other person as of the time
 32 of the member's death. Consent and revocation of consent must be in writing, acknowledged by a
 33 notary public, and submitted to the Public Employees Retirement Board in accordance with rules
 34 adopted by the board. If the member's spouse is designated as the member's beneficiary and the
 35 marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as
 36 predeceasing the member for purposes of this section, unless the member expressly designates the
 37 former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-
 38 quired to be designated as a beneficiary under the provisions of ORS 238.465.

39 (3) *[For purposes of this section and ORS 238A.400 (3),]* If a member fails to designate a benefi-
 40 ciary, or if the person or persons designated do not survive the member, the death benefit provided
 41 for in this section shall be paid to the following person or persons, in the following order of priority:

42 (a) The member's surviving spouse or other person who is constitutionally required to be treated
 43 in the same manner as a spouse;

44 (b) The member's surviving children, in equal shares; or

45 (c) The member's estate.

1 (4) The entire amount of a deceased member's vested accounts must be distributed by December
2 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
3 provision of this chapter, distributions of death benefits under the individual account program must
4 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
5 plementing that section, as in effect on December 31, 2015. The Public Employees Retirement Board
6 shall adopt rules implementing those minimum distribution requirements.

7 **SECTION 4. (1) The amendments to ORS 238.465, 238A.400 and 238A.410 by sections 1 to**
8 **3 of this 2017 Act become operative on January 1, 2019.**

9 **(2) The Public Employees Retirement Board may take any action before the operative**
10 **date specified in subsection (1) of this section to enable the board to exercise, on and after**
11 **the operative date specified in subsection (1) of this section, all the duties, functions and**
12 **powers conferred on the board by the amendments to ORS 238.465, 238A.400 and 238A.410 by**
13 **sections 1 to 3 of this 2017 Act.**

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