

Enrolled House Bill 2284

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor
Kate Brown for Public Employees Retirement System)

CHAPTER

AN ACT

Relating to alternate payees in the Public Employees Retirement System; creating new provisions;
and amending ORS 238.465.

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

SECTION 1. ORS 238.465 is amended to read:

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

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

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

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

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

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

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

(d) Except as provided in ORS 238.305 (10) and 238.325 (7), that any person designated by the member as a beneficiary under ORS 238.300, 238.305, 238.325, 238A.190 or 238A.400 be changed, even though the member has retired and has begun receiving a retirement allowance or pension. If a change of beneficiary is ordered under this paragraph, the board shall adjust the anticipated benefits that would be payable to the member and the beneficiary to ensure that the cost to the system of providing benefits to the member and the new beneficiary does not exceed the cost that the system would have incurred to provide benefits to the member and the original beneficiary. The judgment, order or settlement may not provide for any change to the option selected by the retired member under ORS 238.300, 238.305, 238.320, 238.325, 238A.190 or 238A.400 as to the form of the retirement benefit.

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

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

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

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

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

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

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

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

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

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

(7) An alternate payee who elects to begin receiving payments under subsection (1) of this section before the member's effective date of retirement is not eligible to receive any additional payment by reason of credit in the system acquired by the member after the alternate payee begins to receive payments.

(8) Subsection (1) of this section applies only to payments made by the board after the date of receipt by the board of written notice of the judgment, order or agreement and such additional information and documentation as the board may prescribe.

(9)(a) **Subject to the limitations provided in this subsection**, whenever the board is required to make payment to an alternate payee under the provisions of this section, the board shall charge and collect out of the benefits payable to the member and the alternate payee actual and reasonable administrative expenses and related costs incurred by the board in obtaining data and making calculations that are necessary by reason of the provisions of this section.

(b) The board may not charge more than [,\$300] **\$1,300** for total administrative expenses and related costs incurred in obtaining data or making calculations that are necessary by reason of the provisions of this section. The board shall allocate expenses and costs charged under the provisions of this subsection between the member and the alternate payee based on the fraction of the benefit received by the member or alternate payee.

(c) **On January 1 of each year, the board shall adjust the dollar amount provided in paragraph (b) of this subsection to reflect any percentage increase in the cost of living for the previous calendar year, based on changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor.**

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

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

SECTION 2. (1) The amendments to ORS 238.465 by section 1 of this 2023 Act apply to orders received and deemed administrable on or after the effective date of this 2023 Act.

(2) The Public Employees Retirement Board shall make the first adjustment required under ORS 238.465 (9)(c) on January 1, 2025.

Passed by House June 1, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 24, 2023

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Rob Wagner, President of Senate

Received by Governor:

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Approved:

.....M,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

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Secretary of State