



Oregon

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TO: Interested Parties
FROM: Heather Case, Senior Policy Director
SUBJECT: HB 2284 (2023) Summary – Divorce Fee Increase

BACKGROUND

ORS 238.465(9) requires to the board to charge administrative expenses related to creation of an alternate payee account to both the member and the alternate payee. However, currently, ORS 238.465(9) provides “The board may not charge more than \$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 dollar amount of \$300 was originally set in 1993. Since 1996, OAR 459-045-0090 has provided “The Board has determined that actual and reasonable administrative expenses incurred by PERS for obtaining data and making calculations to administer an alternate payee award will always exceed \$300.” As of 2019, the approximate cost to process a divorce decree (the most common way an alternate payee account is created) was \$1,300.

PERS reviewed 1,125 divorce decrees in 2017, 971 in 2018, 899 in 2019, 947 in 2020, and 847 in 2021. A fee is not charged for every divorce decree reviewed. If the court order does not result in the alternate payee having a right to a share of the member’s retirement benefit, resulting in additional calculation to account for the divorce award, then PERS does not charge this fee. However, every divorce decree must be reviewed to ensure this is the case.

When an alternate payee account is created, and a fee is charged, that fee is prorated between the member and the alternate payee and is not paid out of pocket; it is deducted from the member and alternate payee distributions. This means the fee is not collected until a distribution is made, which may be many years after the actual work dividing the account is performed. Additionally, there is no interest charged on the fee if it is collected many years later.

PROPOSED SOLUTION

In order to ensure this statutorily required fee and the upper limit more closely resemble PERS’ administrative expenses, LC 461 proposes to update the statutorily prescribed fee limit to \$1,300, then, beginning in 2025, begin indexing the fee limit to automatically adjust every year in line with Consumer Price Index (CPI).