



Oregon

Tina Kotek, Governor

Public Employees Retirement System

Headquarters:

11410 S.W. 68th Parkway, Tigard, OR

Mailing Address:

P.O. Box 23700

Tigard, OR 97281-3700

(888) 320-7377

TTY (503) 603-7766

<http://oregon.gov/PERS/>

November 1, 2024

TO: Interested Parties
FROM: Heather Case, Senior Policy Advisor
SUBJECT: SB 852 (2025) Summary – Post-Retirement Death Benefit Clarifications

BACKGROUND

SB 852 updates the administration of selected post-retirement death benefits to clarify language, eliminate administrative challenges, and promote administrative efficiencies.

PROPOSED SOLUTION

This agency-requested Legislative Concept proposes the following changes:

- ***IAP Post-Retirement Death Payout***

Currently if a retired member receiving installment payments from the Individual Account Program (IAP) dies before the account is fully paid out, all remaining installment payments would be made to the beneficiary(ies) designated by the member. Beneficiaries are given the option to take a lump-sum payment, and although it is not mandatory, many of them elect the lump sum payment.

This bill amends ORS 238A.400 to mandate beneficiaries to take a lump-sum payment. Under new federal Required Minimum Distribution (RMD) rules put in place under the Secure Act 2.0 (2022), there are now three classes of potential payees (eligible designated beneficiary, designated beneficiary, non-designated beneficiary) with separate RMD rules at the member's post-retirement death for each class. By amending 238A.400 to provide a lump sum distribution to all post-retirement IAP beneficiaries, the new RMD rules will always be met, thereby avoiding the administrative challenges presented by the new RMD rules. Further, the amendment aligns the post-retirement death benefit with the pre-retirement IAP death benefit, as they are already limited to lump sum distributions, so this would create consistency in IAP death benefit administration.

- ***Increase Minimum Monthly Payment for Additional P&F Death Benefit***

Under ORS 238.405(3), the legislature currently provides an additional death benefit payable to surviving spouses or children of deceased police officers and firefighters. If the monthly amount of this benefit is under \$30, the beneficiary will receive the actuarial lump sum equivalent. This minimum monthly benefit of \$30 was not updated to \$200 when ORS 238.315, 238.390(3), and 238.395(1)(d) were updated in 2001. By amending ORS 238.405 to increase the minimum monthly payment from \$30 to \$200 for the additional death benefit provided to survivors of P&F members, this minimum monthly payment would be brought in line with the other minimum monthly benefit payments in ORS 238 and ORS 238A.

- ***Correct statutory language regarding the OPSRP “Pop-Up” Options***

ORS 238A.190(2) currently provides that a retired member who elects a survivorship benefit with “pop-up” option can have their benefit actuarially adjusted to a single life option in the event their elected beneficiary predeceases them or in the event that the “marriage relationship *or other relationship* with the beneficiary is terminated after the member retires” (emphasis added).

In instances where a relationship has dissolved, federal law only permits a benefit to be popped-up when the couple was legally married. This means that PERS is unable to administer a pop-up for couples who have dissolved a registered domestic partnership because to do so would threaten PERS’ federal tax plan qualification. Further, the OPSRP statute is currently written so loosely that members might mistakenly think any kind of “other relationship” would qualify. i.e., they name their roommate as their beneficiary, but roommate moves out. This concept would amend ORS 238A.190(2)(a) to clarify that only the dissolution of a marriage relationship can trigger a pop-up. (Note: This change only impacts pop-ups triggered by the dissolution of a relationship and does not apply if a designated beneficiary predeceases them. Under 238 and 238A, if a member elects a pop-up option and designates someone, including an ex-registered domestic partner, as beneficiary and that beneficiary predeceases the member, the member is still able to pop-up pursuant to ORS 238A.190(2)(a).)

- ***Correct Unintended Limitation on Allowing Surviving Spouse Beneficiary to Make an Option Change for Member***

ORS 238.400 currently provides that if a member of the system who has retired from service dies within the 60 days to make an option change and the spouse is the member’s named pre-retirement beneficiary, the surviving spouse can elect to receive a pre-retirement death benefit, an Option 2 survivor benefit, or an Option 3 survivor benefit. The statute additionally requires that the member has not already elected a retirement option under 238.305 (all non-refund annuity options).

The current statutory language was put in place prior to PERS streamlining how the agency processes retirement applications by having members elect a retirement option upon application. Meaning, in practice, only surviving spouses of retirees who elected a refund annuity benefit at retirement are currently eligible to make the option change described in 238.400.

This concept would amend ORS 238.400 to remove the language requiring that the member has not already elected an option under 238.305 in order for their surviving spouse to be eligible to request an option change if the member dies prior to the expiration of the time that they could have made an option swap under ORS 238.305.