

# **JUDGE MEMBER'S HANDBOOK**

**A Summary of PERS Judge  
Member Benefits**

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Revised November 2023

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## **PERS Mission**

We serve the people of Oregon by administering public employee benefit trusts to pay the right person the right benefit at the right time.

In keeping with the Americans with Disabilities Act, this handbook can be provided in an alternative format, which you can request by calling 503-598-7377, 888-320-7377 (toll free), or 503-603-7766 (TTY).

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## PERS Judge Member Program

*Disclaimer: This handbook is not a legal reference and is not a complete statement of the laws or PERS administrative rules. In any conflict between this handbook and Oregon laws or administrative rules, the laws and administrative rules shall prevail.*

### Membership in the Judge Member Program

This handbook provides you with basic information about the Judge Member Program and benefits from the Judge Member Fund.

Legislation in 1983 [Oregon Revised Statutes (ORS) 238.500 to 238.585] created the PERS Judge Member Program, which allowed the transfer of all sitting judges covered under the Judges Retirement Fund to the Judge Member Program. It also allowed the transfer of district court judges who were previously considered regular PERS members. The Judge Member Program now automatically includes any judge of the Oregon Supreme Court, Court of Appeals, Oregon Tax Court, and Circuit Courts.

Generally, if you are a judge elected or appointed on or after January 1, 1984, you automatically become a judge member of PERS on the date you take office and are not covered under the original Judges Retirement System under ORS 1.314 to 1.380 [ORS 238.505(1)]. As a judge member, you may retire pursuant to ORS 238.535(1)(a), referred to as *Plan A*, or pursuant to ORS 238.535(1)(b), referred to as *Plan B*.

If age prevents you from making the required contributions during each of five calendar years at or before reaching 75 years of age (the mandatory retirement age for judges), you cannot become a judge member. Any contributions remitted on your behalf will be sent back to your employer.

### Membership in the PERS Chapter 238 Program or the Oregon Public Service Retirement Plan (OPSRP) Pension Program

If you have prior membership in the PERS Chapter 238 (Tier One/Tier Two) Program or the OPSRP Pension Program, refer to the following A-Z Quick Answers links on the PERS Members Web page:

- Tier One/Tier Two
- OPSRP

As a judge member, your judge contributions are credited to your judge account. You will not have an Individual Account Program (IAP) account unless you have prior membership in the PERS Chapter 238 (Tier One/Tier Two) Program, the Individual Account Program (IAP), or the Oregon Public Service Retirement Plan (OPSRP) Pension Program.

When you request a judge member estimate from PERS, you will automatically receive information on all PERS pension benefits available to you.

### Records

The Human Resource Services Division of the Office of the State Court Administrator in Salem keeps judicial payroll records and some service records. For information, call 800-962-0736 (toll free) or 503-986-5930.

**Your Social Security Number**

PERS must have your correct Social Security number to report all benefit and refund payments to the IRS. Statutory authority for this use of a Social Security number is found in Section 6109 of the Internal Revenue Code.

**Keeping in Contact with PERS**

If you leave PERS-covered employment without withdrawing your member account, notify PERS of any changes in your name or mailing address by completing the Information Change Request form located on the PERS website.

If you need a copy of your annual statement, send a written request to the PERS Customer Service Center. You will find PERS contact information in the back of this handbook.

After you retire, please keep PERS informed of your correct name and address so you will continue to receive 1099Rs, *Perspectives* (PERS' newsletter), retiree health insurance enrollment notices, and other important information.

**Provisions of the PERS Judge Member Program**

**Contributions and Earnings**

As a judge member, you contribute 7 percent of your gross monthly salary to the Public Employees Retirement Fund. The state shall pick up, assume, or pay the full amount of these contributions (ORS 238.515). Your salary is subject to contributions beginning on your hire date. PERS uses these contributions to fund your retirement plan benefits.

Judge member accounts receive earnings based on the rate approved by the PERS Board.

**Member Annual Statement**

After the Board sets final earnings rates each year, PERS prepares a detailed statement of each non-retired judge member's account balance. PERS mails the statements in late spring to active and inactive judge members.

Your statement shows:

- the total balance for judge and non-judge member accounts as of the previous December 31,
- earnings credited for the prior year,
- contributions to your account for that year, and
- your participation in the Variable Annuity Program.

**Variable Annuity Program**

**Important:** You cannot participate in the Variable Annuity Program if you (1) became a member of the Judge Member Program after June 30, 2003, or (2) were a judge member on June 30, 2003, and chose not to participate in the program on or before that date. If you were a judge member on June 30, 2003, and were participating

in the Variable Annuity Program, you may continue to contribute to the program.

If you had a variable account on December 31, 2003, it will continue to be credited with earnings unless you choose a one-time variable transfer.

Earnings or losses are applied to the portion of your account balance in the Variable Annuity Program based on investment returns.

If you participate in the variable account, you may:

- 1) transfer your variable account into your regular account at the time of retirement—your decision to transfer is irrevocable 60 days after the date of your first benefit payment,
- 2) continue to participate in the Variable Annuity Program after retirement—the variable annuity portion of your benefit will be adjusted, up or down, February 1 annually for the 12-month period ending October 31 of the prior year, or
- 3) elect a one-time variable transfer at any time to transfer your variable account to your regular account if you meet eligibility requirements. The election becomes effective on January 1 following the date PERS receives the form and is irrevocable. You may never again participate in the Variable Annuity Program.

### **Effect of Variable Participation on Plan A and Plan B Calculations**

There are two plans, A and B, under which you can retire. When you retire, PERS uses formulas provided by statute to compute your benefit, with a maximum benefit cap of 65 percent of final average salary under Plan A or 75 percent of final average salary under Plan B.

If you transfer your variable account to your regular account at retirement, PERS will increase or decrease your benefit based on variable account earnings or losses.

A variable adjustment at retirement could result in a retirement allowance greater or less than 65 percent and 75 percent for Plans A and B respectively.

If you transferred your variable account to your regular account by requesting a one-time variable transfer, your judge benefit will be adjusted only if your variable account accrued losses (see page 9).

The variable transfer adjustment after a one-time variable transfer could result in a retirement allowance less than 65 percent and 75 percent for Plans A and B respectively.

If you remain in the Variable Account Program after retirement, the portion of your monthly benefit funded by the Variable

Annuity Program will increase or decrease annually. Continued participation in the Variable Annuity Program after retirement could result in a retirement allowance greater or less than 65 percent and 75 percent for Plans A and B, respectively.

For information regarding the differences between Plans A and B, see Appendix A.

### **Beneficiary Designation**

You can change your beneficiary designation at any time before receiving your first benefit payment by completing a Pre-Retirement Designation of Beneficiary form. You can change your beneficiary designation at any time after you receive your first benefit payment by completing a Post-Retirement Designation of Beneficiary form. Review your designation annually, and change it if your situation warrants.

Your beneficiary(ies) can be any person(s) or the personal representative of your estate or a trustee you named to execute an express trust. If you are married, your spouse will receive a spouse's pension as provided under ORS 238.565. [See page 14, "Naming a Beneficiary," for information about designating your beneficiary(ies).] You can make changes to your beneficiary designation on a PERS Designation of Beneficiary form [ORS 238.565(1)].

### **Designation of Beneficiary Form**

Pre-Retirement Designation of Beneficiary and Post-Designation of Beneficiary forms are available online at <http://oregon.gov/pers>. Mail your completed form directly to PERS. Beneficiary changes do not become effective until PERS accepts the form.

### **Election to Withdraw Funds**

You may elect to withdraw the amount credited to your judge member account if you:

- separate from all service with PERS-participating employers and employers treated as part of any PERS-participating employer's control group,
- separate for any reason other than death or disability, and
- have been separated from all PERS-covered employment for one full calendar month following the month of your separation date.

You must submit an Account Balance Withdrawal Application to obtain the funds. The form is available online at [www.oregon.gov/pers](http://www.oregon.gov/pers) or by calling 888-320-7377 (toll free).

A withdrawal cancels all judge membership rights in the retirement system, including the right to claim credit for service time as a judge member prior to withdrawal.

**Vesting** You are vested when you (1) have made contributions to the Judge Member Fund in each of five calendar years before reaching age 75 and (2) have not withdrawn your judge member account.

Once you are vested, you retain your judge member account even if you terminate employment as a judge member. You will be entitled to death benefits, a disability retirement allowance, or service retirement benefits if you meet statutory criteria.

## Service Retirement Benefits and Planning for Retirement

**Requesting a Benefit Estimate** If you are vested and within two years of retirement, PERS can provide benefit estimates to you free of charge. PERS requires a minimum of 30 days to prepare most judge member estimates. Due to staffing limitations, PERS recommends limiting judge member estimate requests to two per year.

Online Member Services can also provide you with self-generated estimates for retirement planning purposes.

**Compulsory Retirement Age** The Oregon Constitution requires judge members to retire from judicial office at the end of the calendar year in which they attain age 75 [Oregon Constitution, Art. VII (AM) Sec. 1a and ORS 238.525].

**Plan Election Required before Age 60** The chief justice of the Supreme Court makes the rules for administering Plan B.

If you are appointed or elected to serve as a judge before age 60, the State Court Administrator's office will provide you with JRB Form 1 90 days before you turn age 60. Complete the form and return it to the State Court Administrator's office before you turn age 60. Your plan election is irrevocable after you turn age 60 [ORS 238.535(1)].

If you fail to make an election before reaching age 60, PERS must calculate your benefits under Plan A [ORS 238.535(1)].

**Plan Election for Appointments/Elections after Age 60** If you are appointed or elected to serve as a judge after age 60, the State Court Administrator's office will ask you to complete JRB Form 1 after you begin your judicial service. PERS must calculate your benefits under Plan A if you fail to make a plan election within the requested period.

**PERS 238 Service and OPSRP Service Separate from Judge Service** Service in the PERS Chapter 238 (Tier One/Tier Two) Program or the Oregon Public Service Retirement Plan (OPSRP) Pension Program is separate from your service as a judge. Each program has its own eligibility criteria, vesting requirements, calculation formulas, and benefit payment options. You may choose from the retirement options offered only by each respective program.

### **Earliest Retirement**

When you have vested and reached the age of 60, you are entitled to a monthly retirement allowance for life (non-refund).

Your Plan A benefits will be reduced by 8 percent per year for each year you are below age 65 at retirement [ORS 238.535(5)]. For example, if you retire at age 60 with a gross monthly benefit of \$3,000, you will receive a benefit reduced by 40 percent, or a gross monthly benefit total of \$1,800. (See page 7 for an example of how PERS calculates benefits under Plan A.)

Your benefits, payable under Plan B, are not reduced for early retirement between the ages of 60 and 65 [ORS 238.535(1)(b)]. (See page 8 for an example of how PERS calculates benefits under Plan B.)

### **Effective Retirement**

Your effective retirement date is the first of the month following the last day you worked or the first of the month following the date PERS receives your application for benefits, whichever is later. You may choose to apply for a later effective retirement date, but by doing so you forfeit any benefits which you would have been eligible to receive had you retired immediately following your last day of work. Postponing your retirement date could also make you ineligible for the PERS Health Insurance Program.

Monthly benefit payments are paid on the first day of the month. You can expect to receive your first benefit payment 30 to 92 days after your effective retirement date. If your first payment is delayed, you will receive payment retroactive to your effective retirement date.

After you determine your retirement date, contact PERS to request a retirement application and any other forms needed to begin your retirement benefits. The forms are also available online at [www.oregon.gov/PERS](http://www.oregon.gov/PERS).

### **Final Average Salary**

Your final average monthly salary will be the greater of the amounts below divided by 36 months:

- your last 36 months of salary as a judge member, or
- your highest three calendar-year salaries during your career as a judge member in PERS-covered employment.

### **Creditable Service**

Creditable service (retirement credit) is the number of years and months during which you earned PERS-qualifying salary and contributions as a judge member. You earn one month of creditable service for each month in which you work a major fraction of that month, regardless of how many PERS-participating employers you are working for at one time. You must be employed at least 50 hours a month to receive one month of creditable service.

It takes 28 years of judge member creditable service to obtain the

maximum benefit under Plan A and 23.54 years under Plan B. Regardless of creditable service, ORS 238.535 limits benefits to a maximum of 65 percent of final average salary for Plan A and 75 percent of final average salary for Plan B.

### Plan A Calculation

The Plan A calculation uses final average salary, creditable service, and a statutory percentage to determine a monthly benefit, as follows:

$(2.8125\% \text{ of final average annual salary}) \times (\text{years and months of creditable service to a maximum of 16 years})$

plus

$(1.67\% \text{ of final average annual salary}) \times (\text{years and months of creditable service in excess of 16 years})$

#### Example

(Assumes an annual salary of \$122,481 and service time of 20 years.)

$\$122,481 \times 3 \text{ years} = \$367,443$  (final average salary)

$\$367,443 / 36 \text{ months} = \$10,207$  (final average monthly salary)

$2.8125\% \times \$10,207 = \$287.07$

$\$287.07 \times 16 \text{ years} = \$4,593.12$  annual benefit

$1.67\% \times \$10,207 = \$170.46$

$\$170.46 \times 4 \text{ years} = \$681.84$  annual benefit

$\$4,593.12 + \$681.84 = \$5,274.96$  annual monthly benefit  
(52 percent of final average salary)

### Plan A Restrictions

Plan A is subject to the following restrictions:

- 1) The monthly amount of your pension (non-refund) shall not exceed 65 percent of final average salary except when a positive variable adjustment is applicable [ORS 238.535(1)(a)].
- 2) Your benefit will be reduced by 8 percent per year for each year you are below age 65 at retirement [ORS 238.535(5)].

### Plan B Calculation

The Plan B calculation uses final average salary, creditable service, and a different statutory percentage than Plan A because of the requirement to serve as a *pro tem* judge:

$(3.75\% \text{ of final average annual salary}) \times (\text{years and months of creditable service to a maximum of 16 years})$

plus

$(2\% \text{ of final average annual salary}) \times (\text{years and months of creditable service in excess of 16 years})$

**Example**

(Assumes an annual salary of \$122,481 and service time of 20 years.)

$\$122,481 \times 3 \text{ years} = \$367,443$  (final average salary)

$\$367,443 / 36 \text{ months} = \$10,207$  (final average monthly salary)

$3.75\% \times \$10,207 = \$382.76$

$\$382.76 \times 16 \text{ years} = \$6,124.16$  annual benefit

$2.00\% \times \$10,207 = \$204.14$

$\$204.14 \times 4 \text{ years} = \$816.56$  annual benefit

$\$6,124.16 + \$816.56 = \$6,940.72$  annual monthly benefit  
(68 percent of final average salary)

**Plan B Restrictions**

Plan B is subject to the following restrictions:

- 1) The monthly amount of the pension (non-refund) shall not exceed 75 percent of final average salary except when a positive variable adjustment is applicable [ORS 238.535(1)(b)].
- 2) There is no actuarial reduction for retirement before age 65. There is, however, a requirement to provide service as a *pro tem* judge for five years.

**Service as a *Pro Tem* Judge under Plan B**

If you retire under Plan B, you must serve as a *pro tem* judge without compensation for 35 days a year for a period of five years. The Oregon Supreme Court must approve your application to serve as a Plan B *pro tem* judge. If the Supreme Court does not approve your application, you will default to Plan A at retirement.

If you serve more than 35 days per year, you may carry over the additional days to help fulfill your *pro tem* service obligation in future years.

The five-year period will commence on your retirement date or the date on which you commence *pro tem* service under ORS 238.535 (1)(c) or 238.545(4), whichever is earlier.

If approved by the chief justice of the Supreme Court, an inactive judge member who elects to retire under Plan B may commence to serve the *pro tem* service obligation before the judge member's retirement date.

This program is administered by rules of the chief justice of the Supreme Court [ORS 238.535(1)(c)]. Obtain the rules and forms regarding a Plan B election by contacting the Office of the State Court Administrator, 1163 State Street (Supreme Court Building), Salem, OR 97301-2563; telephone: 503-986-5900; fax: 503-986-5503.

**Note:** Non-compliance with Plan B requirements may result in a default to Plan A benefits. (Also see ORS 1.310, “Involuntary Retirement of Judges for Disability.”)

**Variable Adjustment Resulting from a One-Time Variable Transfer**

When you retire and if you elected a one-time variable transfer, PERS compares the variable earnings on contributions (before the one-time variable transfer) to what the same contributions (before the one-time variable transfer) would have earned in the regular account. If the calculation shows you earned less in the variable account than you would have earned in the regular account, PERS applies a variable adjustment reduction to your benefit as provided by ORS 238.260(14)(c).

**Variable Adjustment at Retirement**

If you participate in the variable account and request a variable transfer at retirement, PERS compares the variable earnings on contributions to what the same contributions would have earned in the regular account. PERS then multiplies the difference by an annuity factor based on your age at retirement. The result is added to or subtracted from the judge member benefit calculation under Plan A or Plan B.

<b>Example</b>	
Variable account at retirement:	\$75,000
Variable contributions with regular interest:	<\$50,000> \$25,000
Annuity adjustment: $\$25,000 \times .00786$ (factor for age 60) = \$196.50 per month	
<b>Judge Member Plan B Calculation with Variable Adjustment</b>	
Variable account exceeds regular earnings: $\$6,297.52 + \$196.50^* = \$6,494.02$ monthly retirement benefit	
$\$6,297.52 - \$196.50^{**} = \$6,101.02$ monthly retirement benefit	
* If the variable adjustment is done at retirement, the annuity adjustment can be a positive or negative amount.	
** If you elected a one-time variable transfer, the annuity adjustment will be a negative amount.	
If the variable account was \$25,000 less than what those contribution contributions would have earned in the regular account, the Plan B allowance would be reduced by \$196.50 (at age 60).	

**Variable Adjustment after Retirement**

The variable portion of your monthly benefit will increase or decrease annually if you remain in the variable account after retirement. Refer to “Variable Annuity Program” on pages 2–3 for additional information.

**Cost-of-Living Adjustment**

Every monthly retirement allowance or pension payable to you or your surviving spouse may be adjusted annually to reflect the cost-of-living percentage increase or decrease, as provided in ORS 238.360 and ORS 238.575(1). Your August 1 benefit payment will include this adjustment if applicable.

**Other Adjustments**

If you qualify, your benefit may be augmented by *ad hoc* increases pursuant to ORS 238.575. You may receive the higher of the following *ad hoc* increases—designed to remedy the state income taxation of your benefit—if you meet the eligibility criteria:

- The 1995 Legislature passed HB 3349 (ORS 238.380), which provides a maximum 9.89 percent benefit increase as a remedy for Oregon personal income taxation. The HB 3349 formula increases pension benefits earned for service time before October 1, 1991. The benefit increase percentage is the ratio of the service you earned before October 1, 1991, and all of the service you earned as a PERS-eligible employee.
- ORS 238.385 (SB 656, 1991) provides a retirement allowance increase based on your years of service. This increase ranges from 1 to 4 percent. You must have been a member of PERS before July 14, 1995, to qualify for this benefit increase.

**Important:** The 2011 Legislature passed Senate Bill 822, which now limits payment of *ad hoc* increases only to PERS recipients who reside in Oregon and who pay Oregon personal income taxes. Senate Bill 822 prohibits payment of *ad hoc* increases to PERS recipients who are not Oregon residents or subject to Oregon personal income tax.

If you qualify for an *ad hoc* increase, you will be required to complete a PERS Residency Status Certification when you apply for retirement benefits to receive the increase. You must maintain Oregon residency after retirement to continue to receive *ad hoc* increases.

**Direct Deposit**

You may elect to have your monthly benefits automatically deposited into your checking or savings account. This will ensure that your payments are deposited on the first working day of the month, even if you are traveling or ill. It also helps prevent lost or stolen checks.

PERS may send your first check to your home while it validates the bank routing.

Direct deposit forms are available at all PERS offices or online at [www.oregon.gov/pers](http://www.oregon.gov/pers).

## Purchases

You may purchase additional time or forfeited time to add to the retirement credit used to calculate your retirement benefits. PERS performs separate monthly retirement benefit calculations for judge member time and non-judge member time. Depending on your work history, you may be eligible to purchase judge member time and non-judge member time.

For a list of purchases offered, refer to A-Z Quick Answers for Members on the PERS website.

The following conditions apply to purchases:

- Some purchases require at least 10 years of retirement or service credit since employment.
- The purchase must be made in one payment. (Multiple purchases can be combined into one payment.)
- Some purchases must include any interest compounded to the effective retirement date.
- General service retirement benefits cannot be paid under a lump-sum retirement option when the purchase includes forfeited time.
- Most purchases must be made in the 90-day period before the effective retirement date.
- Purchases of service time may now be made using pre-tax dollars from a 457 governmental-deferred compensation plan like the Oregon Savings Growth Plan (OSGP) or a 403(b) tax-sheltered annuity.

## Non-Judge Member Time

Service in the PERS Chapter 238 Program (Tier One/Tier Two) or the Oregon Public Service Retirement Plan (OPSRP) Pension Program is separate from your service as a judge. Each program has its own vesting requirements, eligibility criteria, calculation formulas, and benefit payment options. When you request an estimate, PERS will automatically provide information on these types of benefits.

## Reduction in PERS Benefits

### Divorce

Your PERS benefits may be subject to court action in a divorce. For more information, request PERS publication *General Information on Divorce and PERS Benefits* by calling 888-320-7377 (toll free).

If you enter into a prenuptial or ante-nuptial agreement that gives your spouse no right or claim to PERS benefits, a spouse's pension will not be paid after your death. The prenuptial or ante-

nuptial agreement must be filed with PERS before your death. (See “Benefits for a Former Spouse” on page 14 if you choose to have some or all of your benefits paid to a former spouse following your death.)

Your designated beneficiary(ies) may receive the remainder of your unpaid account balance (see page 14, “Death Benefits”).

**Support Obligations**

Your PERS benefits may be subject to court action for the payment of spousal, child, or other types of support under the provisions of ORS 238.445.

**Tax Liens**

Your PERS benefits may be subject to state or federal tax liens.

**Recovery of Overpayments**

Oregon law requires PERS to recover any improperly made payment, including overpayment of benefits. Recovery may include reducing future benefit payments.

**Taxes**

**Benefits are Taxable**

PERS benefits are subject to federal and Oregon state income taxes in the same manner as other post-retirement benefit income. Taxable amounts are any amounts on which you have not already paid income tax and include contributions picked up by your employer. Your surviving beneficiary may also owe state inheritance and federal estate taxes.

You may qualify for *ad hoc* increases to offset the Oregon state income tax (see page 10, “Other Adjustments”).

If you are not an Oregon resident as determined by the Oregon Department of Revenue, your benefits are not subject to Oregon income tax, based on federal law effective January 1, 1996.

It is advisable to consult with your local IRS office or professional tax advisor for help computing tax liability and for tax return preparation.

**Tax Withholding**

You can elect to have PERS withhold federal and Oregon state tax deductions from monthly benefit payments by completing IRS Form W-4P. If you reside outside of Oregon, contact the appropriate agency in the state where you live to determine if there is a state tax on your benefits and, if so, to make arrangements for tax payments. By January 31 of each year, PERS mails tax reporting forms for benefits paid during the previous year to retired members.

Withdrawn funds are subject to federal income taxes plus an additional 10 percent federal income (premature distribution)

**Tax Penalties for  
Withdrawing Funds**

tax penalty unless you elect a direct-transfer rollover into an individual retirement account (IRA) or other qualified plan.<sup>\*</sup> You can roll over only the taxable portion of your withdrawal. PERS must withhold 20 percent federal tax on the taxable portion of your withdrawal. If you are contemplating a premature distribution and choose not to make a rollover, we suggest you consult your tax adviser.

**Disability Retirement****Benefits**

There are two types of disability retirement: duty (job-caused) and non-duty (ORS 238.555).

If you meet disability criteria, you will receive a monthly pension based on service until age 65 and retired under Plan A, or, a monthly pension equal to 45 percent of your final average salary, whichever is greater. (See page 6, "Final Average Salary," for information on how PERS computes final average salary.)

**Duty-Connected  
Disabilities**

To be eligible for a job-caused disability allowance, you must be:

- under age 65,
- found to be mentally or physically incapacitated for an extended duration as determined by medical examination,
- unable to perform any work for which you are qualified,
- disabled by injury or disease that was not intentionally self-inflicted, and
- disabled by injury or disease, where your employment was the efficient, dominant, and proximate cause of the disabling condition.

**Non-Duty-Connected  
Disabilities**

To be eligible for a non-duty-job-caused disability allowance, you must be:

- under age 65,
- found to be mentally or physically incapacitated for an extended duration as determined by a medical examination,
- unable to perform any work for which you are qualified,
- disabled by injury or disease that was not intentionally self-inflicted, and
- have six or more years of service as a judge.

**Applying for Disability**

If you are an inactive member, you must file the application within five years of the last day you worked. Medical documentation must show that the disabling injury or illness has

<sup>\*</sup> The 10 percent penalty applies only to persons under age 59½.

been continuous from the last day worked to the date PERS receives and accepts your application.

If you have terminated employment and you become disabled, you must apply within six months from your last day worked, and the medical documentation must show that your disabling injury or illness has been continuous from the last day you worked to the date PERS receives and accepts your application.

## **Death Benefits**

### **Naming a Beneficiary**

PERS pays monthly death benefits to your surviving spouse, or former spouse if your current spouse gave written consent granting your former spouse the right to all or a portion of your pension benefits (see page 15, "Benefits for a Former Spouse"). If there is no surviving spouse, and you elect to provide benefits to your former spouse, PERS will pay monthly death benefits to your former spouse. In some cases, a judge member is considered to have no surviving spouse (see "Prenuptial and Ante-Nuptial Agreements" on page 15).

If you die and do not have a surviving spouse and your judicial account balance is not depleted, it will be paid in lump sum(s) as instructed by the Designation of Beneficiary form on file with PERS. If you did not provide PERS with a Designation of Beneficiary form, any remaining judicial account balance will be paid in lump sum(s) to your estate as provided in ORS 238.390(2).

### **Benefits for a Surviving Spouse**

The Judge Member Program provides a life pension for your spouse equal to two-thirds of the benefit amount you were receiving at the time of death.

When you apply for retirement benefits, you may elect to receive a reduced retirement allowance to provide your spouse with more than the standard two-thirds survivorship pension. You may elect a continuation of benefits ranging from 66 2/3 percent to 100 percent by electing to receive a reduced retirement allowance before receiving your first retirement check [ORS 238.565(4)].

When you request an estimate, PERS will automatically provide spousal continuation benefits calculated at 66-2/3, 80, 90, and 100 percent.

You may also choose any percentage between 66-2/3 and 100. Please ask PERS to calculate these additional options when you send an estimate request.

### **Benefits for a Former Spouse**

You may elect at any time to have all or a portion of your pension benefits that would be paid to your surviving spouse paid to a

former spouse upon your death. Your former spouse will receive benefits throughout his or her lifetime. At the time you choose to make the election, your current spouse must provide written consent to the election.

If you:

- do not have a surviving spouse at the time of your death, your former spouse will receive a life pension for only that part of the pension you specify in the election.
- have a surviving spouse and you elected to have the entire pension paid to the former spouse when you die, your surviving spouse will receive no benefit.
- elected to have a portion of your benefit paid to a former spouse, your surviving spouse will receive that portion of the pension not paid to the former spouse until the former spouse's death, at which time all pension benefits cease.

### **Prenuptial and Ante-Nuptial Agreements**

When death benefits are payable either before or after your retirement, you will be considered to have died with no surviving spouse if (1) you have entered into a prenuptial or ante-nuptial agreement that provides that your spouse shall have no right or claim to a surviving spouse's pension [ORS 238.565(6)(a)] and (2) a copy of either the prenuptial or ante-nuptial agreement has been filed with PERS before your death [ORS 238.565(6)].

The Board is not liable for payment to a non-spouse beneficiary if the prenuptial or ante-nuptial agreement was revoked and the Board was not notified.

### **Death Certificate Required**

A member or representative of your family must call PERS at 888-320-7377 (toll free) and report your death as soon as possible. PERS will request a photocopy of the death certificate.

## **Death Benefits before Retirement**

### **Plan A Surviving Spouse Life Pension**

If you have six or more years of service as a judge, die before retiring, and are not an inactive member performing *pro tem* service, your surviving spouse will receive a monthly life pension. The amount will be equal to two-thirds of the service retirement allowance you would have received under Plan A had you retired on the date of death [ORS 238.565(2)(a)].

### **Plan B Surviving Spouse Life Pension**

If you are performing *pro tem* service under Plan B and die before retiring, your surviving spouse will receive a monthly life pension equal to two-thirds of the retirement allowance you would have received under Plan B had you retired on the date of death [ORS 238.565(2)(b)].

**Surviving Spouse Ineligible for Pension**

If you die before retiring and served less than six years as a judge, your surviving spouse is not entitled to a pension. Instead, your surviving spouse will receive a lump sum equal to the amount credited to your account on the date of your death [ORS 238.565(2)(e)].

If there is no surviving spouse, your beneficiary or beneficiaries will receive a lump sum equal to the amount credited to your account on the date of your death [ORS 238.565(2)(d)].

**No Surviving Spouse**

If you have six or more years of service as a judge, die before retiring, and have no surviving spouse, your beneficiary or beneficiaries will receive a lump sum equal to the amount credited to your account on the date of your death [ORS 238.565(2)(d)]. If you did not file a beneficiary designation form, the amount credited to your account on the date of your death will be paid to your estate.

**Death Benefits after Retirement**

**Member Benefits Stop at Death**

After receiving notification of your death, PERS will stop retirement benefits paid to you. Any payments issued to you after your death must be returned to PERS.

After your death, PERS will provide written notification of benefit eligibility to your surviving spouse (if any) or to your beneficiary(ies). If no payments are due, PERS will notify your family in writing.

**Surviving Spouse Life Pension**

Your surviving spouse will receive a life pension payable monthly. The pension will equal two-thirds of the retirement allowance you were receiving or were entitled to receive on the date of death unless you elected to provide additional benefits to your surviving spouse or have a prenuptial or ante-nuptial agreement on file with PERS (see page 15 for more information).

**Death of a Surviving Spouse**

If your spouse dies after survivorship benefits have started and your account balance has not been depleted, your beneficiary(ies) will receive the remaining balance in a lump-sum payment [ORS 238.565(3)(b)].

**No Surviving Spouse**

When you die after retiring, have no surviving spouse and your account balance has not been depleted, your beneficiary(ies) will receive the remaining balance in a lump-sum payment [ORS 238.565(3)(b)].

**Unpaid Accrued Retirement Allowance**

Any accrued retirement allowance due to you that is unpaid at the time of your death will be paid:

- first to your surviving spouse; or
- if there is no surviving spouse, then in a lump-sum payment to your beneficiary(ies); or
- if there is no surviving spouse and no beneficiary, then in a lump-sum payment to the personal representative of your estate; or
- if none of the above apply and your estate will not be probated, then according to the purposes and in the manner provided in ORS 238.390(4) and ORS 238.565(5).

**Health Insurance****Eligibility**

As a retired judge member, you are eligible for health insurance for yourself, your spouse, and your eligible dependents under all plans offered through the PERS Health Insurance Program (ORS 238.410).

You are eligible to enroll in a PERS-sponsored plan within 90 days of your effective retirement date or when you become Medicare eligible. You may also enroll at any time if you have been covered by another group health plan for 24 consecutive months immediately preceding enrollment. (In this case, you should enroll in a PERS-sponsored plan before your current coverage ends.) The Enrollment Request Form is located at [www.pershealth.com/PDF\\_files/Forms/EnrollmentRequestForm.pdf](http://www.pershealth.com/PDF_files/Forms/EnrollmentRequestForm.pdf).

**Health Insurance Administration**

You may elect to have health insurance payments deducted from your monthly retirement payments by completing the Payment Option Form found at [www.pershealth.com/PDF\\_files/Forms/Payment.pdf](http://www.pershealth.com/PDF_files/Forms/Payment.pdf).

For information concerning enrollment eligibility or premiums, call the PERS Health Insurance Program at 503-224-7377 or 800-768-7377 (toll free). You may also write to the PERS Health Insurance Program at PO Box 40187, Portland, OR 97240-0187.

**Retirement Health Insurance Account**

The Oregon Legislature has established a Retirement Health Insurance Account from which PERS pays a monthly contribution toward the cost of a PERS-sponsored health insurance plan for eligible retired members (ORS 238.420).

Eligible PERS retirees receive a contribution of up to \$60 that is applied to their monthly health plan premium. In general, to be eligible for this contribution, you must:

- be receiving a PERS retirement allowance and have a minimum

of eight years of qualifying service time as a PERS member, or be receiving a PERS disability retirement allowance computed as if you have eight or more years of creditable service;

- be enrolled in Medicare Part A (hospital) and Part B (medical); and
- be enrolled in a PERS-sponsored health plan.

Spouses and dependents are not eligible for this subsidy while you are living. Your surviving spouse may be eligible for this subsidy if your spouse is:

- enrolled in Medicare Parts A and B,
- enrolled in a PERS-sponsored health plan, and
- receiving a retirement allowance or benefit from PERS.

### **Retirement Health Insurance Premium Account**

You are eligible for the Retirement Health Insurance Premium Account (RHIPA) if you **are not** Medicare eligible. ORS 238.415 requires the PERS Board on or before January 1 of each year to calculate the average difference between the health insurance premiums paid by retired state employees under contracts entered into by the Board and health insurance premiums paid by state employees who are not retired. The average difference is then paid to qualified retired state employees.

The percentage of the payment applied toward your premium is based on the length of time you participated in PERS. For example, if you have 30 or more years of PERS-qualifying service, you will receive 100 percent of the average payment, while a judge member with eight years of service will receive 60 percent.

You are qualified to receive this benefit if you (1) had eight or more years of qualifying service in the system at the time of retirement or (2) are receiving a disability pension calculated as if you had eight or more years of qualifying service but are not eligible for federal Medicare coverage.

Your non-Medicare eligible surviving spouse or dependent is eligible to receive the subsidy if he or she is (1) receiving a retirement benefit or allowance from PERS or (2) insured at the time you died and you retired on or after September 29, 1991.

## Summary of Plan A and Plan B

	Plan A <sup>1</sup>	Plan B
<b>Fully vested</b>	After you make contributions in each of five calendar years.	After you make contributions in each of five calendar years.
<b>Restrictions</b>		Must serve as a <i>pro tem</i> judge without compensation for 35 days a year for a period of five years—the Oregon Supreme Court must approve your application for Plan B. If you serve more than 35 days, you may carry over the additional days to fulfill <i>pro tem</i> service obligation in future years.
<b>Eligible retirement age for full benefits</b>	65	60
<b>Monthly amount of the life pension<sup>2</sup></b>	Cannot exceed 65 percent of your final average salary (FAS).  Benefits are reduced 8 percent for each year you retired prior to age 65 (e.g., if you retire at age 60, your benefits will be reduced 40 percent).	Cannot exceed 75 percent of your final average salary (FAS).
<b>Monthly retirement benefit based on<sup>3</sup></b>	Final average salary, creditable service time (CST), and a statutory percentage.	Final average salary, creditable service time (CST), and a statutory percentage.

1. Before reaching age 60, you must choose either retirement Plan A or Plan B. If you fail to do so, you will default to Plan A at retirement.
2. See pages 7–8 for information on how PERS calculates the benefit.
3. There are special calculation provisions for judges who had more than 28 years of judge service as of September 27, 1987.

**Investment  
Earnings and  
Distributions**

Earnings credited to PERS member accounts since 1947 can be found at <https://www.oregon.gov/pers/Pages/Financials/Earning-Crediting-by-Year.aspx>.

## Important PERS Addresses and Telephone Numbers

Due to the complexity of judge member accounts, most inquiries will be forwarded to PERS' Judge Member Coordinator for resolution. You can contact other departments with specific issues relating to those programs.

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### Public Employees Retirement System

(PERS) Headquarters—Tigard

11410 SW 68th Parkway

Tigard, OR 97223

888-320-7377 (toll free)

503-603-7766 (TTY)

503-598-0561 (fax)

[www.oregon.gov/pers](http://www.oregon.gov/pers)

### Mailing Address

PO Box 23700

Tigard, OR 97281-3700

### Judge Member Coordinator

503-603-7778

Email: [PERSJudge.COUNSELOR@pers.oregon.gov](mailto:PERSJudge.COUNSELOR@pers.oregon.gov)

### Member Services

888-320-7377 (toll free)

Email: [PERS.Member.Services@state.or.us](mailto:PERS.Member.Services@state.or.us)

M-F, 8:30 a.m.-5 p.m.

### Employer Representatives

888-320-7377 (toll free)

503-603-7626 (fax)

Email: [Employer.Support@pers.state.or.us](mailto:Employer.Support@pers.state.or.us)

[www.oregon.gov/pers/EMP/Pages/ESC-Representatives.aspx](http://www.oregon.gov/pers/EMP/Pages/ESC-Representatives.aspx)

### PERS Salem Office and Oregon Savings Growth Plan (OSGP)

800 Summer Street NE, Suite 200

Salem, OR 97301

888-320-7377 (toll free)

503-603-7655 (fax)

[www.oregon.gov/pers/OSGP/Pages/index.aspx](http://www.oregon.gov/pers/OSGP/Pages/index.aspx)

### PERS Health Insurance Program

PO Box 40187

Portland, OR 97240-0187

503-224-7377

800-768-7377 (toll free)

503-765-3452 (fax) or 888-393-2943 (fax)

[www.pershealth.com](http://www.pershealth.com)

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### Requesting Information

Your file is confidential. If you request information on your account or authorize other individuals to do so, please submit your request and signature in writing.

