

**Enrolled**  
**Senate Bill 771**

Sponsored by COMMITTEE ON RURAL COMMUNITIES AND ECONOMIC DEVELOPMENT

CHAPTER .....

AN ACT

Relating to judge members of Public Employees Retirement System; amending ORS 238.565; and declaring an emergency.

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

**SECTION 1.** ORS 238.565 is amended to read:

238.565. (1) For the purposes of this section, [*the beneficiary of the judge member shall be any person, or the personal representative of the estate of the judge member, or a trustee named by the judge member to execute an express trust, whom the judge member designates as a beneficiary*] **a judge member may designate a beneficiary or beneficiaries** by written designation duly acknowledged and filed with the board before the death of the judge member. **Beneficiaries designated by a judge member may include any persons, the personal representative of the estate of the judge member or the trustee named by the judge member to execute an express trust.**

(2)(a) If a judge member who has six or more years of service as a judge dies before retiring, and the judge member is not an inactive judge member who is performing a pro tem service obligation under the provisions of ORS 238.545 (4), the surviving spouse of the judge member shall receive a life pension, payable monthly, equal to two-thirds of the service retirement allowance the judge member would have received under ORS 238.535 (1)(a) had the judge member retired on the date of death.

(b) If a judge member who has six or more years of service as a judge dies before retiring, and the judge member is an inactive member who is performing a pro tem service obligation under the provisions of ORS 238.545 (4), the surviving spouse of the judge member shall receive a life pension, payable monthly, equal to two-thirds of the service retirement allowance the judge member would have received under ORS 238.535 (1)(b) had the judge member retired on the date of death.

(c) If a surviving spouse receiving a pension under paragraph (a) or (b) of this subsection dies and the total amount received as pension by the surviving spouse is less than the amount credited to the member account of the judge member in the fund on the date of death of the judge member, the beneficiary **or beneficiaries** shall receive a lump sum amount equal to the difference between the total amount received by the surviving spouse and the amount so credited to the member account of the judge member.

(d) If a judge member who has six or more years of service as a judge dies before retiring and has no surviving spouse, the beneficiary **or beneficiaries** shall receive a lump sum amount equal to the amount credited to the member account of the judge member in the fund on the date of death of the judge member.

(e) If the surviving spouse of a judge member who dies before retiring is not entitled to a pension under paragraph (a) or (b) of this subsection, the surviving spouse shall receive a lump sum

amount equal to the amount credited to the member account of the judge member in the fund on the date of death of the judge member.

(3)(a) If a judge member dies after retiring, the surviving spouse of the judge member shall receive a life pension, payable monthly, equal to two-thirds of the retirement allowance the judge member is receiving or is entitled to receive on the date of death.

(b) If a surviving spouse receiving a pension under paragraph (a) or (b) of this subsection dies and the total amount received as retirement allowance by the retired judge member and as pension by the surviving spouse is less than the amount credited to the member account of the judge member on the date of retirement of the judge member, the beneficiary **or beneficiaries** shall receive a lump sum amount equal to the difference between the total amount received as retirement allowance and pension and the amount so credited to the member account of the judge member.

(c) If a judge member dies after retiring and has no surviving spouse, and the total amount received as retirement allowance by the retired judge member is less than the amount credited to the member account of the judge member on the date of retirement of the judge member, the beneficiary **or beneficiaries** shall receive a lump sum amount equal to the difference between the total amount received as retirement allowance and the amount so credited to the member account of the judge member.

(4) At any time after becoming a judge member, but not later than the date on which the first payment on account of retirement is due, a judge member may elect to provide an addition to the pension of the surviving spouse of the judge member under subsection (3)(a) of this section by selecting a reduced retirement allowance for the judge member. The additional pension to the surviving spouse shall be the actuarial equivalent of the reduction in the retirement allowance of the judge member and, in no event, when added to the pension under subsection (3)(a) of this section, shall it exceed the reduced retirement allowance elected by the judge member.

(5) Any accrued retirement allowance due a retired judge member that is unpaid at the time of death of the judge member shall be paid to the surviving spouse of the judge member. If there is no surviving spouse, the accrued retirement allowance shall be paid to the beneficiary **or beneficiaries** of the judge member. If there is no surviving spouse or beneficiary, the accrued retirement allowance shall be paid as provided in ORS 238.390 (2).

(6) Notwithstanding any other provision of this section, a judge member shall be considered to have died with no surviving spouse if:

(a) The judge member has entered into a prenuptial or antenuptial agreement with the spouse of the judge that provides that the spouse shall have no right or claim to a surviving spouse's pension; and

(b) The judge member has filed a copy of the prenuptial or antenuptial agreement with the board before the death of the judge member.

(7) The board shall not be liable for any payment made to a beneficiary by reason of a prenuptial or antenuptial agreement filed with the board under subsection (6) of this section unless the board has actual knowledge that the agreement has been revoked.

(8) A judge member may elect to have all or part of the pension that is payable to a surviving spouse under this section be paid to a former spouse of the judge member. The election may be made before or after the judge member retires. If a judge member makes an election under this subsection, the board shall pay the designated portion of pension to the former spouse for the life of the former spouse. If a judge member is married at the time an election is made under this subsection, the spouse of the judge member must give written consent to the election. An election under this subsection does not affect the amount of any additional pension elected by a judge member under subsection (4) of this section. If a judge member makes an election under this subsection and the judge member does not have a surviving spouse when the judge member dies, the former spouse shall receive a life pension for only that part of the pension specified in the election. If a judge member makes an election under this subsection and the judge member has a surviving spouse when the judge member dies:

(a) The surviving spouse shall receive no benefit if the judge member elected to have the entire pension payable under this section paid to the former spouse; or

(b) The surviving spouse shall receive that part of the pension not paid to the former spouse until the death of the former spouse.

**SECTION 2. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.**

**Passed by Senate June 11, 2013**

.....  
Robert Taylor, Secretary of Senate

.....  
Peter Courtney, President of Senate

**Passed by House June 20, 2013**

.....  
Tina Kotek, Speaker of House

**Received by Governor:**

.....M.,....., 2013

**Approved:**

.....M.,....., 2013

.....  
John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2013

.....  
Kate Brown, Secretary of State