



# Oregon

Tina Kotek, Governor

## Public Employees Retirement System

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September 26, 2025

TO: Members of the PERS Board

FROM: Melanie Chandler, Research Policy Coordinator, Policy Analysis and Compliance Section  
Stephanie Vaughn, Manager, Policy Analysis and Compliance Section

SUBJECT: Adoption of Rulemaking for 238 Pre-Retirement Death Benefits:  
  
*OAR 459-014-0040 Valid Request for Distribution of Pre-Retirement Death Benefits*

### OVERVIEW

- Action: Staff recommends adoption of the Pre-Retirement Death Benefit.
- Reason: Revision to death benefit rule to clarify PERS' practice for spouses applying for a preretirement death benefit.

### BACKGROUND

In 2019, the Legislature passed an “optional spouse death benefit” providing an alternate preretirement death benefit for surviving spouses of Tier One or Tier Two PERS members who pass away before retiring.<sup>1</sup> This alternative death benefit is in lieu of the death benefit provided under Oregon Revised Statute (ORS) 238.390 and 238.395(1) with the goal of aligning preretirement death benefits for surviving spouses of Tier One and Tier Two ORS Chapter 238 members with what is provided to the surviving spouses of OPSRP members under ORS Chapter 238A. See ORS 238.395(2) and 238A.230.

An aspect of the optional spouse preretirement death benefit under ORS 238 and for spouses of OPSRP members under 238A is the ability for the member’s spouse to delay the start of payments. When the payment of these benefits is delayed, they are actuarially adjusted for age and interest when payments commence. The statutes are not specific about what constitutes a “delay” nor how that delay will relate to the “*benefit shall be actuarially adjusted for when payments commence*” language.

PERS has established a “one year from the member’s date of death” standard to demarcate what constitutes a “delay.” The proposed rule amendment provides transparency and clarity to members and their beneficiaries about how preretirement death benefits are calculated when payment of those benefits is delayed.

<sup>1</sup> House Bill (HB) 2417 (2019)

### PUBLIC COMMENT AND HEARING TESTIMONY

A rulemaking hearing was held remotely and in person on August 26, 2025, at 2:00 p.m. The public comment period ended August 29, 2025, at 5:00 p.m. No public comment was received.

### LEGAL REVIEW

The attached rules were submitted to the Department of Justice for legal review and any comments or changes have been incorporated before the rules are presented for adoption.

### IMPACT

Mandatory: No

Benefit: Updates the rules to reflect current agency practice and provide clarification for members.

Cost: There are no discrete costs attributable to these rules.

### RULEMAKING TIMELINE

July 21, 2025:	Staff began the rulemaking process by filing Notice of Rulemaking with the Secretary of State.
August 1, 2025:	Secretary of State published the Notice in the Oregon Administrative Rules Database. Notice was sent to employers, legislators, and interested parties. The public comment period begins.
July 25, 2025:	PERS Board notified that staff began the rulemaking process.
August 26, 2025:	Rulemaking hearing was held remotely and at the PERS headquarters at 2:00 p.m.
August 29, 2025:	Public comment period ended at 5:00 p.m.
September 26, 2025:	Staff will propose adopting the rule modifications, including any changes resulting from public comment or reviews by staff or legal counsel.

### BOARD OPTIONS

The PERS Board may:

1. Pass a motion to adopt the amendments to the 238 Pre-Retirement Death Benefits as presented.
2. Direct staff to make other changes to the rule or explore other options.

### STAFF RECOMMENDATION

Staff recommends the PERS Board choose Option #1.

B.5. Attachment 1 – OAR 459-014-0040 *Valid Request for Distribution of Pre-Retirement Death Benefits*