



**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 459  
**OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM**

**FILED**

07/23/2025 2:59 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Revision to clarify PERS' practice for spouses applying for a pre-retirement death benefit.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/29/2025 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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Filed By:  
Joel Mellor  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 08/26/2025

TIME: 2:00 PM

OFFICER: Joel Mellor

IN-PERSON HEARING DETAILS

ADDRESS: PERS Headquarters Board Room, 11410 SW 68th Pkwy, Tigard, OR 97223

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 971-300-4342

CONFERENCE ID: 947610573

SPECIAL INSTRUCTIONS:

Meeting ID: 238 900 468 796 4

Passcode: 9qf64wt9

NEED FOR THE RULE(S)

In 2019, the Legislature passed an "optional spouse death benefit" providing an alternate pre-retirement death benefit for surviving spouses of Tier One or Tier Two PERS members who pass away before retiring. The alternative death benefit established in this bill is in lieu of the death benefit provided under ORS 238.390 and 238.395(1) and the goal was to align pre-retirement death benefits for surviving spouses of ORS 238 members with what is provided to the surviving spouses of OPSRP members under ORS 238A. See ORS 238.395(2) and 238A.230.

An aspect of the optional spouse pre-retirement 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 are 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.

As staff has been addressing cases involving delays in intervening years since the benefit was established, staff established a “one year from the member’s date of death” standard to demarcate what constitutes a “delay.” The proposed rule amendment is being presented to provide transparency and clarity to membership and their beneficiaries about how pre-retirement death benefits are calculated when payment of those benefits is delayed.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

ORS 238.650

ORS 238.390

ORS 238.395

These documents are available on the Internet at: [https://www.oregonlegislature.gov/bills\\_laws/Pages/ORS.aspx](https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx)

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STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

Adoption of the rule will not affect racial equity.

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FISCAL AND ECONOMIC IMPACT:

There are no discrete costs attributable to the rules.

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COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

None.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The rules do not affect small businesses and therefore small businesses were not involved in the development of the rules.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

A public hearing will be held and the PERS Board solicits input on rules from any interested or affected parties.

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AMEND: 459-014-0040

RULE SUMMARY: Revision to death benefit rule to clarify PERS’ practice for spouses applying for a pre-retirement death benefit.

CHANGES TO RULE:

459-014-0040

Valid Request for Distribution of Pre-Retirement Death Benefits ¶¶

(1) For the purposes of this rule, "valid request for distribution" is when PERS receives the last required document PERS has determined necessary to distribute a death benefit to a beneficiary.¶¶

(2) PERS must receive a copy of the death certificate of the deceased member or alternate payee. PERS will provide instructions to a beneficiary identifying additional documents that must be received to make a valid

request for distribution. Required documents may include but are not limited to:¶

- (a) Death Benefit Election;¶
- (b) Letters of Testamentary/Administration;¶
- (c) Small Estate Affidavit or out of state equivalent;¶
- (d) Affidavit of Next of Kin;¶
- (e) Affidavit of Beneficiary;¶
- (f) Declaration of Beneficiary;¶
- (g) Proof of marriage;¶
- (h) Proof of registered domestic partnership;¶
- (i) Proof of birth of the beneficiary;¶
- (j) Trust document or certification of trust;¶
- (k) Proof of Conservatorship; and¶
- (l) Proof of Guardianship.¶

(3) Earnings crediting for the distribution amount for an IAP account beneficiary will be determined under OAR 459-007-0320.¶

(4) A benefit distribution will be considered "delayed" under ORS 238.395(2) and ORS 238A.230 when a valid request for distribution is received more than one year after the member's date of death.¶

(a) If a benefit under ORS 238.395(2) or ORS 238A.230 is delayed, the death benefit effective date will be the first of the month in which the affidavit or declaration requesting distribution is received by PERS.¶

(b) If a benefit under ORS 238.395(2) or ORS 238A.230 is delayed and the member's beneficiary dies prior to PERS receiving an affidavit or declaration requesting distribution, the benefit will be paid as a lump-sum payment equaling the sum of the payments the member's beneficiary would have received had they not delayed distribution.

Statutory/Other Authority: ORS 238.650, 238A.450

Statutes/Other Implemented: ORS 238.390, 238A.230, 238A.410, ORS 238.395