

# Senate Bill 54

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies commencement date for increased monthly benefits payable to retired member of Public Employees Retirement System who selects optional retirement allowance that provides increased benefit if beneficiary dies before retired member or if retired member and spouse divorce. Provides that increased benefit is applicable to first full month following death or entry of judgment of divorce.

## A BILL FOR AN ACT

1  
2 Relating to public employee retirement; creating new provisions; and amending ORS 238.305 and  
3 238.325.

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

5 **SECTION 1.** ORS 238.305 is amended to read:

6 238.305. (1) Not later than 60 days after the first benefit payment is made to a retired member  
7 of the **Public Employees Retirement** System, the member may elect to convert the allowance de-  
8 scribed by ORS 238.300 as payable after retirement into a service retirement annuity of equivalent  
9 actuarial value of one of the optional forms named below. The election of Option 2, 2A, 3 or 3A shall  
10 be effective immediately upon the member's retirement.

11 Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be  
12 the actuarial equivalent of accumulated contributions by the member and interest thereon credited  
13 at the time of retirement (if death occurs before the first payment is due, the member account shall  
14 be treated as though death had occurred before retirement); (b) a life pension (nonrefund) provided  
15 by the contributions of employers as provided in ORS 238.300 (2); (c) an additional nonrefund pension  
16 for prior service credit, including military service, credited to the member at the time of first be-  
17 coming a member of the system, as elsewhere provided in this chapter, which pension shall be pro-  
18 vided by the contributions of the employer; or

19 Option 2. A reduced service retirement allowance payable during the member's life, with the  
20 provision that it continue after death for the life of the beneficiary the member nominates by written  
21 designation duly acknowledged and filed with the Public Employees Retirement Board at the time  
22 of election, should the beneficiary survive the member; or

23 Option 2A. A reduced service retirement allowance payable during the member's life which,  
24 unless modified under subsection (6) of this section, continues after death for the life of the benefi-  
25 ciary the member nominates by written designation duly acknowledged and filed with the board at  
26 the time of election, should the beneficiary survive the member; or

27 Option 3. A reduced service retirement allowance payable during the member's life, with the  
28 provision that it continue after death at one-half the rate paid to the member and be paid for the

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 life of the beneficiary the member nominates by written designation duly acknowledged and filed  
2 with the board at the time of election, should the beneficiary survive the member; or

3 Option 3A. A reduced service retirement allowance payable during the member's life which,  
4 unless modified under subsection (6) of this section, continues after death at one-half the rate paid  
5 to the member and is paid for the life of the beneficiary the member nominates by written desig-  
6 nation duly acknowledged and filed with the board at the time of election, should the beneficiary  
7 survive the member; or

8 Option 4. A reduced service retirement allowance payable during the member's life, with the  
9 provisions that if the member dies before a total of 180 monthly payments is made, the remainder  
10 of the 180 monthly payments shall be paid monthly to the beneficiary the member nominates by  
11 written designation duly acknowledged and filed with the board at any time before the member's  
12 death; and that if the member designates no beneficiary to receive the monthly payments or no such  
13 beneficiary is able to receive the monthly payments, an amount equal to the actuarial value, on the  
14 date of the member's death, of the total of the monthly payments not made to the member shall be  
15 paid according to ORS 238.390 for disposal of an amount credited to the member account of a  
16 member at the time of death; and that if the beneficiary receiving monthly payments dies before the  
17 total number of monthly payments to which the beneficiary is entitled is made, an amount equal to  
18 the actuarial value, on the date of the beneficiary's death, of the total of the monthly payments not  
19 made to the member and beneficiary shall be paid according to ORS 238.390 for disposal of an  
20 amount credited to the member account of a member at the time of death and as if the beneficiary  
21 had been a member.

22 (2) Not later than 60 days after the first benefit payment is made to a retired member of the  
23 system, the member may elect, in lieu of the allowance described by ORS 238.300 as payable after  
24 retirement, a service retirement benefit consisting of:

25 (a) A refund of accumulated contributions by the member and interest thereon credited at the  
26 time of refund; and

27 (b) A life pension (nonrefund) provided by the contributions of employers as provided in ORS  
28 237.147 (2) (1979 Replacement Part), and an additional life pension (nonrefund) for prior service  
29 credit as provided in ORS 238.300 (3). At the same time as making the election under this subsection,  
30 the member may elect to convert the pensions described by this paragraph into a service retirement  
31 annuity of equivalent actuarial value of one of the optional forms named as Option 2, 2A, 3 or 3A  
32 under subsection (1) of this section.

33 (3) Not later than 60 days after the first benefit payment is made to a retired member of the  
34 system, the member may elect in lieu of the allowance described by ORS 238.300 a refund service  
35 retirement benefit consisting of:

36 (a) A refund of accumulated contributions by the member and interest thereon credited at the  
37 time of retirement;

38 (b) An amount that matches the amount of accumulated contributions by the member and in-  
39 terest thereon, provided by the contributions of employers; and

40 (c) Interest on the amounts described in paragraphs (a) and (b) of this subsection from the ef-  
41 fective date of retirement until the amounts are paid.

42 (4)(a) If the member elects to receive the service retirement benefit described in subsection (2)  
43 or (3) of this section, the member shall elect at the same time to receive the refund described in  
44 subsection (2)(a) or (3) of this section in one lump sum payment or in more than one but not more  
45 than five installment payments. If the member elects installment payments:

1 (A) The amount to be paid by employer contributions under subsection (3)(b) of this section shall  
2 be transferred to the individual account of the member in the Public Employees Retirement Fund  
3 as of the effective date of retirement.

4 (B) The installment payments shall be paid once each year for the number of consecutive years  
5 equal to the number of installment payments elected.

6 (C) The amount of each installment payment shall be designated by the member at the time of  
7 making the election, but the last installment payment shall be the unrefunded balance remaining in  
8 the member account of the member in the fund.

9 (D) The member account of the member in the fund shall be maintained until the last installment  
10 payment is paid. The board shall establish procedures for computing and crediting interest annually  
11 on the unrefunded balance of the member account.

12 (E) A yearly installment payment shall be paid on the anniversary of the date of the first in-  
13 stallment payment.

14 (F) The member is considered to have elected to transfer any balance in the variable account  
15 of the member to the regular account of the member.

16 (G) If the member dies before payment of all installment payments, the unrefunded balance in  
17 the member account of the member plus interest to date of disbursement is payable as provided in  
18 ORS 238.390 (4).

19 (b) If a member elects to receive the refund service retirement benefit described in subsection  
20 (3) of this section, and does not elect to receive those amounts in installments under the provisions  
21 of this subsection, all rights of the member in the system shall terminate upon the payment of the  
22 amounts provided for in subsection (3) of this section, except as provided in paragraph (c) of this  
23 subsection. If a member elects to receive the refund service retirement benefit described in sub-  
24 section (3) of this section, and also elects to receive those amounts in installments under the pro-  
25 visions of this subsection, all rights of the member in the system shall terminate upon the making  
26 of the first payment, except as provided in paragraph (c) of this subsection.

27 (c) A member who elects to receive the refund service retirement benefit described in subsection  
28 (3) of this section, and any eligible spouse or dependent of the member, shall continue to be eligible  
29 for insurance under ORS 238.410, and for any premium payments the member may be entitled to  
30 under ORS 238.415 and 238.420.

31 (5) The designation of a beneficiary, the election of an option or any other election or desig-  
32 nation under subsection (1), (2), (3) or (4) of this section may be changed by the member within 60  
33 days after the date of the first benefit payment, except that the designation of a beneficiary under  
34 Option 4 may be changed by the member at any time before the member's death.

35 (6) If a retired member has elected to receive a service retirement allowance under Option 2A  
36 or Option 3A as provided in subsection (1) of this section, and if the beneficiary under that option  
37 dies after the expiration of the time within which the member could change the election of an option  
38 or if the beneficiary is the spouse of the member and the marriage relationship is terminated as  
39 provided by law after the expiration of the time within which the member could change the election  
40 of an option, the member may elect to receive, in lieu of the optional form of allowance previously  
41 elected, the allowance that the member would have received on the effective date of retirement  
42 under Option 1 as provided in subsection (1) of this section and adjusted by the actual amount of  
43 any cost-of-living or other post-retirement adjustments made to the original allowance since the ef-  
44 fective date of retirement. Notice of election under this subsection *[shall]* **must** be in a form ap-  
45 proved by the board. *[Payment under Option 1 shall be effective for months beginning on or after the*

1 *date the board receives the election.] If an election is made under this subsection, the Option 1*  
 2 **payment amount is applicable to the first full month after the death of the beneficiary, or**  
 3 **the first full month after entry of the judgment of divorce, and payable the first day of the**  
 4 **month thereafter. If the increased amount is not paid in any month in which the increased**  
 5 **amount is due, the board shall make a lump sum payment to the retired member that is**  
 6 **equal to the difference between the amount paid to the member for that month and the**  
 7 **amount that should have been paid under the provisions of this subsection.**

8 (7) Notwithstanding any other provision of this section, any member of the system who retired  
 9 before October 3, 1989, and elected to receive a service retirement allowance under either Option  
 10 2 or 3 as provided in subsection (1) of this section shall be entitled to receive a service retirement  
 11 allowance equal to that which the member would have received on the effective date of retirement  
 12 under Option 1 as provided in subsection (1) of this section and adjusted by the actual amount of  
 13 any cost-of-living or other post-retirement adjustments made to the original allowance since the ef-  
 14 fective date of retirement if:

15 (a) The member has attained 80 years of age;

16 (b) The person designated by the member as the member's beneficiary has predeceased the  
 17 member; and

18 (c) The member gives written notice to the board of the death of the member's beneficiary.

19 (8) Notwithstanding any other provision of this section, any member of the system who retired  
 20 before October 3, 1989, who elected to receive a refund of accumulated employee contributions and  
 21 a life pension or pensions under subsection (2) of this section, and who elected to convert the life  
 22 pension or pensions provided for in subsection (2) of this section into a service retirement annuity  
 23 under Option 2 or 3 under subsection (1) of this section, shall be entitled to receive a life pension  
 24 or pensions equal to that which the member would have received on the effective date of retirement  
 25 under subsection (2) of this section and adjusted by the actual amount of any cost-of-living or other  
 26 post-retirement adjustments made to the original life pension or pensions since the effective date of  
 27 retirement if:

28 (a) The member has attained 80 years of age;

29 (b) The person designated by the member as the member's beneficiary has predeceased the  
 30 member; and

31 (c) The member gives written notice to the board of the death of the member's beneficiary.

32 (9) The service retirement allowance provided in subsection (7) or (8) of this section shall be  
 33 applicable to the first full month after the death of the member's beneficiary, or the first full month  
 34 after the member attains 80 years of age, whichever is later.

35 (10) The board may deny an election to convert a service retirement allowance under this sec-  
 36 tion, a change of beneficiary under this section or a change in benefit options under this section if  
 37 that denial is required to maintain the status of the system and the Public Employees Retirement  
 38 Fund as a qualified governmental retirement plan and trust under the Internal Revenue Code and  
 39 under regulations adopted pursuant to the Internal Revenue Code.

40 **SECTION 2.** ORS 238.325 is amended to read:

41 238.325. (1) At any time after establishing membership, but before the expiration of 90 days after  
 42 the **Public Employees Retirement** Board makes its finding that the employee is disabled, an em-  
 43 ployee who is a member of the **Public Employees Retirement** System may elect to convert the  
 44 disability retirement allowance otherwise payable on the member account of the member into a  
 45 disability retirement annuity of equivalent actuarial value, by selecting one of the optional forms

1 named below. The election of Option 2, 2A, 3 or 3A shall be effective immediately upon the effective  
2 date of the member's disability, and in the event of death within the first 90-day period of incapacity,  
3 payment to the beneficiary of the member shall be made in accordance with the option selected.

4 Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be  
5 the actuarial equivalent of the accumulated contributions and interest thereon credited to the  
6 member at the time the member retires (if death occurs before the first payment is due, the member  
7 account of the member shall be treated as though death had occurred before retirement); (b) a life  
8 pension (nonrefund) provided by the contributions of employers as provided in ORS 238.320 (1)(b); (c)  
9 an additional nonrefund pension for prior service credit, including military service, credited to the  
10 member at the time the member first becomes a member of the system, as elsewhere provided in this  
11 chapter, which pension shall be provided by the contributions of the employer; or

12 Option 2. A reduced disability retirement allowance payable during the period of incapacity,  
13 with the provision that after death, if death shall occur after the effective date of the disability and  
14 during the period of incapacity, it shall continue for the life of the beneficiary whom the member  
15 has designated in writing duly acknowledged and filed with the [*Public Employees Retirement*] board  
16 at the time of election, should the beneficiary survive the member; or

17 Option 2A. A reduced disability retirement allowance payable during the period of incapacity  
18 which, unless modified under subsection (3) of this section, continues after death, if death shall occur  
19 after the effective date of the disability and during the period of incapacity, for the life of the ben-  
20 eficiary whom the member nominates by written designation duly acknowledged and filed with the  
21 board at the time of election, should the beneficiary survive the member; or

22 Option 3. A reduced disability retirement allowance payable during the period of incapacity,  
23 with the provision that after death, if death shall occur after the effective date of the disability and  
24 during the period of incapacity, such allowance shall continue at one-half the rate paid to the  
25 member and be paid for the life of the beneficiary whom the member has designated in writing duly  
26 acknowledged and filed with the board at the time of election, should the beneficiary survive the  
27 member; or

28 Option 3A. A reduced disability retirement allowance payable during the period of incapacity  
29 which, unless modified under subsection (3) of this section, continues after death, if death shall occur  
30 after the effective date of the disability and during the period of incapacity, at one-half the rate paid  
31 to the member and is paid for the life of the beneficiary whom the member nominates by written  
32 designation duly acknowledged and filed with the board at the time of election, should the benefi-  
33 ciary survive the member; or

34 Option 4. A reduced disability retirement allowance payable during the period of incapacity,  
35 with the provisions that if the member dies during the period of incapacity and before a total of 180  
36 monthly payments is made, the remainder of the 180 monthly payments shall be paid monthly to the  
37 beneficiary the member nominates by written designation duly acknowledged and filed with the  
38 board at any time before the member's death; and that if the member designates no beneficiary to  
39 receive the monthly payments or no such beneficiary is able to receive the monthly payments, an  
40 amount equal to the actuarial value, on the date of the member's death, of the total of the monthly  
41 payments not made to the member shall be paid according to ORS 238.390 for disposal of an amount  
42 credited to the member account of a member at the time of death; and that if the beneficiary re-  
43 ceiving monthly payments dies before the total number of monthly payments to which the benefi-  
44 ciary is entitled is made, an amount equal to the actuarial value, on the date of the beneficiary's  
45 death, of the total of the monthly payments not made to the member and beneficiary shall be paid

1 according to ORS 238.390 for disposal of an amount credited to the member account of a member  
2 at the time of death and as if the beneficiary had been a member.

3 (2) The beneficiary designated by a member to receive any benefit under this section shall be  
4 the same as designated under ORS 238.390 (1). The designation of a beneficiary or the election of  
5 an option may be changed by a member within 60 days after the date of the first benefit payment,  
6 except that the designation of a beneficiary under Option 4 may be changed by the member at any  
7 time before the member's death.

8 (3) If a retired member has elected to receive a disability retirement allowance under Option  
9 2A or Option 3A as provided in subsection (1) of this section, and if the beneficiary under that op-  
10 tion dies after the expiration of the time within which the member could change the election of an  
11 option or if the beneficiary is the spouse of the member and the marriage relationship is terminated  
12 as provided by law after the expiration of the time within which the member could change the  
13 election of an option, the member may elect to receive, in lieu of the optional form of allowance  
14 previously elected, the allowance that the member would have received on the effective date of re-  
15 tirement under Option 1 as provided in subsection (1) of this section and adjusted by the actual  
16 amount of any cost-of-living or other post-retirement adjustments made to the original allowance  
17 since the effective date of retirement. Notice of election under this subsection *[shall]* **must** be in a  
18 form approved by the board. *[Payment under Option 1 shall be effective for months beginning on or*  
19 *after the date the board receives the election.]* **If an election is made under this subsection, the**  
20 **Option 1 payment amount is applicable to the first full month after the death of the benefi-**  
21 **ciary, or the first full month after entry of the judgment of divorce, and payable the first**  
22 **day of the month thereafter. If the increased amount is not paid in any month in which the**  
23 **increased amount is due, the board shall make a lump sum payment to the retired member**  
24 **that is equal to the difference between the amount paid to the member for that month and**  
25 **the amount that should have been paid under the provisions of this subsection.**

26 (4) The cost to the *[retirement]* system of a disability retirement allowance in any optional form  
27 *[shall]* **may** not exceed the cost to the *[retirement]* system of a nonrefund disability retirement al-  
28 lowance payable to, and on account of, the member making such election.

29 (5) The obligation for payment of any benefit in force prior to April 8, 1953, *[shall]* **may** not be  
30 altered by subsections (1) to (4) of this section. However, the beneficiary of a retired member who  
31 prior to July 1, 1953, elected an option but died prior to the effective date of such election, shall  
32 have a right to repay, before December 31, 1953, the amount of the lump sum refund made in lieu  
33 of the monthly life benefit elected and receive payment of such benefit, computed as of the date of  
34 the member's death and payable from such date.

35 (6) If a member who would have qualified for disability benefits makes preliminary application  
36 for such benefits but dies prior to being found by the board to be disabled or prior to electing a plan  
37 of benefit payments, and the records of the board indicate that the member had designated the sur-  
38 viving spouse as beneficiary under ORS 238.390 (1), such surviving spouse may, not more than 90  
39 days after the board makes its finding that the member would have qualified for disability benefits  
40 if living:

41 (a) Elect to receive the amount referred to in ORS 238.395 if such benefit would have been  
42 available if the member had not applied for disability benefits;

43 (b) If not eligible for benefits under ORS 238.395, elect to receive benefits under ORS 238.390 (1);  
44 or

45 (c) Elect Option 2 or 3 under subsection (1) of this section and designate the surviving spouse

1 as beneficiary thereunder with the same force and effect as if the election and designation had been  
2 properly made by the deceased member.

3 (7) The board may deny an election to convert a disability retirement allowance under this  
4 section, a change of beneficiary under this section or a change in benefit options under this section  
5 if that denial is required to maintain the status of the system and the Public Employees Retirement  
6 Fund as a qualified governmental retirement plan and trust under the Internal Revenue Code and  
7 under regulations adopted pursuant to the Internal Revenue Code.

8 **SECTION 3. The amendments to ORS 238.305 and 238.325 by sections 1 and 2 of this 2005**  
9 **Act apply to any retired member whose beneficiary dies on or after the effective date of this**  
10 **2005 Act or for whom a judgment of divorce is entered on or after the effective date of this**  
11 **2005 Act.**

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