

Resolution No. 271

WHEREAS, ORS 237.600 requires the Fire and Police Disability and Retirement Fund (Fund) to make payment of any pension benefits, specified disability benefits or vested termination benefits that would otherwise be payable to a member of the Fund to an alternate payee, if required by a court approved domestic relations order, and

WHEREAS, it is appropriate that written guidelines be promulgated to aid the Fund Administrator, Fund Members and the spouses of Fund Members to determine whether a domestic relations order complies with ORS 237.600, and

WHEREAS, appropriate guidelines for determining whether a domestic relations order requiring the payment of benefits to an alternate payee complies with ORS 237.600 are attached hereto as Exhibit A, and by this reference made a part hereof, and

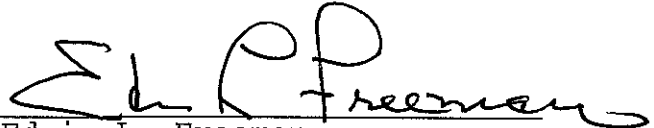
WHEREAS, the guidelines appearing in Exhibit A should be adopted by the Board of Trustees.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Fire and Police Disability and Retirement Fund, that the guidelines attached hereto as Exhibit A be and hereby are adopted and shall become effective immediately except in the case of those domestic relations orders relative to Dennis J. Noelle and Donald F. Jacob which shall be processed as provided in such orders.

BE IT FURTHER RESOLVED that in the course of implementing the guidelines for domestic relations orders, the Fund Administrator is hereby directed that in the event that an Alternate Payee who is receiving a benefit from the Fund predeceases a Fund Member, the monthly benefit amount being paid to the Alternate Payee shall become payable to the Fund Member.

BE IT FURTHER RESOLVED that Paragraph E of Section II (Adoption of Rules) of the Board's Administrative Rules be and hereby is waived with respect to the adoption of the guidelines appearing in Exhibit A.

ADOPTED by the Board of Trustees on December 13, 1994.

  
Edwin L. Freeman  
Fund Administrator

**City of Portland  
Fire and Police Disability and Retirement Fund  
Guidelines for Domestic Relations Orders**

**I. General Principles**

**A. Assignment of Benefits**

In general, benefits provided under the Fire and Police Disability, Retirement and Death Benefit Plan (Plan) may not be assigned or alienated. However, subject to the following guidelines, the payment of any pension benefit, disability benefit or vested termination benefit that would otherwise be payable to a Member of the Plan may be paid in whole or part to an Alternate Payee.

**B. Alternate Payee Defined**

The term Alternate Payee means a spouse, former spouse or dependent minor child of a Member.

**C. Domestic Relations Orders (Orders)**

Payments to an Alternate Payee will be made from the Fire and Police Disability and Retirement Fund (Fund) only if such payments are authorized in a court decree of annulment or dissolution of marriage, or of separation, or the terms of any court order or court approved property settlement agreement incident to any court decree of annulment, dissolution of marriage or separation. Such decrees, orders, judgments or agreements shall hereinafter be referred to as Orders.

**D. Specification of Plan and Parties**

Orders providing for the payment of Plan benefits to an Alternate Payee must:

1. Include the name, social security number and last known mailing address of both the Member and the Alternate Payee; and
2. Specify whether the Order applies to Article 5 (Old Plan) or Article 3 (New Plan) of the Plan,

i.e., Article 3 or Article 5 of Chapter 5 of the Portland City Charter.

**E. Payment to Alternate Payee Bars Recovery by Another Person**

The Fund Administrator will not honor an Order purporting to require the payment of benefits to an Alternate Payee if the Fund already has an obligation to pay the same benefits to another Alternate Payee because of an earlier Order.

**F. Protection of the Fire and Police Disability and Retirement Fund**

The actuarial present value of the benefits to be paid from the Fund to a Member and an Alternate Payee pursuant to an Order may not exceed the present value of the benefits that would be paid to the Member, in the absence of such Order. This means that the Order may not require benefits payable to the Member and Alternate Payee(s) which have a present value in excess of the maximum benefit payable to the Member for the rest of his or her life, with no benefit continuation to survivors.

**G. Time of Payment**

No Order requiring the commencement of payments to an Alternate Payee before the Member's earliest retirement date will be honored. A Member's earliest retirement date is (1) the date the Member attains the age of 50 and has or would have had 25 or more Years of Service or (2) the date the Member attains the age of 55. The foregoing applies only where the Member is an Active Member, a terminated Member entitled to vested termination benefits, or a retired Member. Guidelines for disabled Members appear in Paragraph I.

**H. Form of Payment**

Only Orders specifying a form of benefit that is available to Members under the Plan will be honored. Consequently, benefit payments to an Alternate Payee who is a former spouse must be in the form of an

~~EX~~ A

annuity for the life of the former spouse only. Orders awarding an Alternate Payee a lump sum payment or a benefit in the form of a joint and survivor annuity will not be honored.

**I. Disability Benefits**

1. Orders purporting to require payment of a portion of the disability benefits payable to a Member pursuant to Section 5-306 of the Fire and Police Disability, Retirement and Death Benefit Plan (Plan) (service-connected or occupational disability benefits), will not be honored before the Member attains 55 years of age.
2. In the event that an Order requires the division of a service-connected or occupational disability benefit payable to a Member who has attained 55 years of age, the Board of Trustees will reduce benefit payments to the Member and the Alternate Payee proportionately to reflect any earnings received by the Member while the Member is disabled. Similarly, the Board of Trustees will reduce benefit payments to the Member and the Alternate Payee proportionately to reflect any reduction in benefits to the Member necessitated by the fact that the Member has become Medically Stationary and capable of Substantial Gainful Activity.

For example, if a 55 year old Member is receiving service-connected or occupational disability benefits at the time an order or decree is issued, the total benefit payable to the Member and Alternate Payee is 75% of the Member's Base Pay, reduced by 50% of any earnings received by the Member while he or she remains disabled, until such time as the Member is Medically Stationary and capable of Substantial Gainful Activity. If it is determined that a disabled Member is Medically Stationary and capable of Substantial Gainful Activity the total benefit payable to the Member and Alternate Payee is 50% of the Member's Base Pay reduced by 25% of any earnings received by the Member during the period of disability. If the Order awards 50% of the value of the Member's

benefit to an Alternate Payee and the Member is determined to be Medically Stationary, capable of Substantial Gainful Activity and has other earnings, the benefit payable to the Member and the Alternate Payee will be reduced proportionately in order to ensure that the benefit payable to the Alternate Payee will continue to represent 50% of the total benefit value payable to the Member after any reduction in benefits which will occur if the Member is determined to be Medically Stationary, capable of Substantial Gainful Activity and has other earnings.

3. In the event that an Order requires the division of a nonservice-connected disability benefit, the Board of Trustees will reduce benefit payments to the Member and the Alternate Payee proportionately to reflect any Member's earnings while the Member is disabled.

For example, if the Member is receiving a nonservice-connected disability benefit at the time an Order is issued, the total benefit payable to the Member and an Alternate Payee is 50% of the Member's Base Pay minus 50% of any earnings received by the Member while he or she is disabled. If the Order awards 50% of the value of the Member's benefit to an Alternate Payee and the Member receives other earnings while he or she is disabled, the benefit payable to the Member and the Alternate Payee will be reduced proportionately in order to ensure that the benefit payable to the Alternate Payee will continue to represent 50% of the total benefit value payable to the Member after the earnings offset.

#### **J. Fees**

The Fund shall charge and collect out of the benefits payable to the Member and the Alternate Payee(s) its actual and reasonable administrative expenses in complying with an Order. Such fee shall not exceed \$300 and shall be allocated between the Member and

A

Alternate Payee(s) based on the fraction of the Plan benefit received by the Member or Alternate Payee.

## **II. Methodology**

### **A. Method of Division**

An Order requiring payment of all or part of the actuarial present value of a Member's benefit to an Alternate Payee must specify the percentage of the actuarial present value of the Member's benefit (accrued as of a date certain) to be paid to the Alternate Payee. After receiving the foregoing information the Plan actuary will compute the monthly annuity that will be paid to the Alternate Payee during said Alternate Payee's life, based on the actuarial present value of the Member's benefit which the actuary has computed as of the date specified in the Order.

### **B. The Order may Require that Benefits be Computed Either Immediately or at Some Future Date.**

1. If the actuarial present value of a Member's benefit is to be computed immediately the Order should describe the portion of the actuarial present value payable to the Alternate Payee in terms of known current facts and circumstances. For example, the Order may provide that 50% of the value of the benefit earned by the Member as of a specific date, based on the Member's pay and Years of Service as of that date, is to be paid to the Alternate Payee.
2. If the actuarial present value of the Member's benefit is to be computed at some future date the Order should describe the portion of the actuarial present value to be paid to the Alternate Payee in terms of facts and circumstances that will be known at some future date. For example, the Order may specify that a certain percentage of the value of the benefit which will be paid to the Member when he or she retires shall be paid to the Alternate Payee.

### **III. Benefit Calculation Methodology**

#### **A. Fund Calculation of Benefits is Exclusive**

Benefit payments to be made to Members and Alternate Payees will be based exclusively on calculations of benefits and actuarial present values performed by the Fund's administrative staff and actuaries. All methods and assumptions used to calculate the benefit payments to Member's and Alternate Payees shall be based upon those assumptions used in the most recent actuarial valuation of the Fund.

In computing the benefit or actuarial present value of the benefit payable to a Member, calculations requiring information that is not known at the time the computation is made will not be made. For example, assumptions concerning a Member's future pay or future Years of Service will not be used to calculate the benefit or actuarial present value of the benefit to be paid to a Member or Alternate Payee.

#### **B. Unisex Tables**

In computing benefits and actuarial present values, the same actuarial tables will be used for male and female Members. Similarly, in computing benefits and actuarial present values for Alternate Payees, the same actuarial tables will be used for male and female Alternate Payees.

#### **C. Future Cost of Living Increases**

In calculating the actuarial present value of benefit payments to a Member and Alternate Payee only those cost of living increases guaranteed on an annual basis will be considered. No future ad hoc benefit increases will be considered.

Robert T. McCrory, FSA  
Executive Vice President  
EFI Actuaries  
3131 Broadway East  
Seattle, Washington 98102

December 12, 1994

Mr. Edwin L. Freeman, Fund Administrator  
City of Portland Fire and Police Disability and  
Retirement Fund  
1120 SW Fifth Avenue, Room 1236  
Portland, Oregon 97204

Re: Domestic Relations Order Guidelines

Dear Ed:

The Board is currently considering adoption of a set of guidelines for complying with domestic relations orders. As part of these deliberations, the Board has discussed whether payments under a domestic relations order to a former spouse may revert to the member if the ex-spouse dies before the member. This letter is in response to your request for a brief summary of the financial impact on the Fund of such a reversion.

In short, it is my opinion that reversion of benefits to the member after the death of the alternate payee will not significantly increase Fund expenditures when compared to the situation prior to domestic relations orders. If no domestic relations order is filed, the Fund is obligated to pay the member's full benefit for life, with a 25% continuation of the benefit after the member's death in the event the member remarries. Under a domestic relations order, part of the member's benefit is pledged to the ex-spouse. In the event that the member dies before the ex-spouse, the Fund may be obligated to pay a death benefit of 25% of the member's remaining benefit to the member's current spouse, assuming the member has remarried. However, no death benefit is payable on the ex-spouse's benefit under the domestic relations order. This means that, in most cases, the domestic relations order has reduced the Fund's obligation for death benefits, reducing Fund expenditures.

In the (unlikely) event that the ex-spouse dies before the member, it has been proposed that the ex-spouse's benefit under the domestic relations order should revert back to the member. This continuation of benefits after the ex-spouse has died is a Fund expenditure, but it is slightly more than offset by the reduced death benefits mentioned above. Therefore, the overall impact on the Fund is neutral. I hope this gives you the information you need. Please call me if you have any questions.

Sincerely,



Robert T. McCrory, FSA

*Functional File 80  
attach to  
Res. 27K*



RECEIVED

DEC 07 1994

CITY ATTORNEYS OFFICE

Post-It™ brand fax transmittal memo 7571		# of pages = 2
To: Bill Selby	From: Bob McGarry	
Co: City of Portland	Co: EFE	
Dept: City Att'y's Office	Phone #: (503) 328-8628	
Fax: (503) 823-3089	Fax: (503) 726-6224	

December 6, 1994

Mr. William R. Selby  
Senior Deputy City Attorney  
City of Portland  
1220 SW Fifth Avenue  
Portland, Oregon 97204

Re: Revised Domestic Relations Order Calculation Guidelines

Dear Bill:

You requested that I drop you a brief note concerning the rationale for reversion of the Alternate Payee's benefits to a Member in the event of her early death.

An argument for the reversion is as follows:

1. Prior to the divorce, the marital estate includes the value of the pension earned by the Member. As with any other property, the pension benefit is considered the *joint property* of the married couple, even though the pension is held in the Member's name.
2. The value of the pension included in the marital estate includes the value of the 25% death benefit payable to the spouse after the Member's death.
3. When the divorce occurs, the divorce court will file a domestic relations order with the Fund. This order will require payment of a portion of the Member's benefit to the ex-spouse for the remainder of her lifetime. However, the ex-spouse has no right to elect a beneficiary, so she may not elect to have her benefit continue to a new spouse or relative after her death.
4. The Member retains rights to the remainder of his pension. A death benefit of 25% of the *remaining* pension may continue to a new spouse if the Member should remarry.
5. Note, however, that some of the value of the pension in the marital estate has been lost. In particular, the Fund will not have to pay a 25% death benefit on the portion of the benefit awarded to the ex-spouse, even if the Member should remarry.

Mr. William R. Selby

December 6, 1994

Page 2

6. In order to return the value of this lost benefit to the marital estate, the Fund would permit a reversion of the ex-spouse's benefit to the Member in the unlikely event the ex-spouse predeceases the Member. The value of this reversion is almost exactly the same as (in fact, a little less than) the value of the lost 25% death benefit on the portion of the benefit awarded to the ex-spouse.
7. Therefore, both the Fund and the marital estate both remain whole after the divorce and the domestic relations order. The Fund is not paying more than it was obligated to before the divorce, and the marital estate has not been reduced after the divorce.

We can also argue that the Alternate Payee's benefit should revert to the Member to be consistent with prior practice. Prior to the Domestic Relations Order law, a divorce court would order the Member to make support payments to his spouse. These payments would cease and would revert to the Member in the event of the spouse's early death. Therefore, reversion of payments to the Member under a Domestic Relations Order is consistent with past practice.

Operation of the reversion will be simple. No actuarial computations will be involved. In the event of the Alternate Payee's early death, her monthly benefit will simply be added to the Member's benefit, with no adjustment of any kind.

I hope that this gives you the information you need. If you have any questions or would like to discuss this, please give me a call.

Sincerely,

Robert T. McCrory, FSA  
Executive Vice President

cc: Mr. Edwin L. Freeman  
Ms. Babette Means

Resolution No. 271

WHEREAS, ORS 237.600 requires the Fire and Police Disability and Retirement Fund (Fund) to make payment of any pension benefits, specified disability benefits or vested termination benefits that would otherwise be payable to a member of the Fund to an alternate payee, if required by a court approved domestic relations order, and

WHEREAS, it is appropriate that written guidelines be promulgated to aid the Fund Administrator, Fund Members and the spouses of Fund Members to determine whether a domestic relations order complies with ORS 237.600, and

WHEREAS, appropriate guidelines for determining whether a domestic relations order requiring the payment of benefits to an alternate payee complies with ORS 237.600 are attached hereto as Exhibit A, and by this reference made a part hereof, and


WHEREAS, the guidelines appearing in Exhibit A should be adopted by the Board of Trustees.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Fire and Police Disability and Retirement Fund, that the guidelines attached hereto as Exhibit A be and hereby are adopted and shall become effective immediately.

BE IT FURTHER RESOLVED that Paragraph E of Section II (Adoption of Rules) of the Board's Administrative Rules be and hereby is waived with respect to the adoption of the guidelines appearing in Exhibit A.

ADOPTED by the Board of Trustees on May 3, 1994.

\_\_\_\_\_  
Edwin L. Freeman  
Fund Administrator

*Not adopted at This Time* 

20-  
"0"

**City of Portland  
Fire and Police Disability and Retirement Fund  
Guidelines for Domestic Relations Orders**

**I. General Principles**

**A. Assignment of Benefits**

In general, benefits provided under the Fire and Police Disability, Retirement and Death Benefit Plan (Plan) may not be assigned or alienated. However, subject to the following guidelines, the payment of any pension benefit, disability benefit or vested termination benefit that would otherwise be payable to a Member of the Plan may be paid in whole or part to an Alternate Payee.

**B. Alternate Payee Defined**

The term Alternate Payee means a spouse, former spouse or dependent minor child of a Member.

**C. Domestic Relations Orders (Orders)**

Payments to an Alternate Payee will be made from the Fire and Police Disability and Retirement Fund (Fund) only if such payments are authorized in a court decree of annulment or dissolution of marriage, or of separation, or the terms of any court order or court approved property settlement agreement incident to any court decree of annulment, dissolution of marriage or separation. Such decrees, orders, judgments or agreements shall hereinafter be referred to as Orders.

**D. Specification of Plan and Parties**

Orders providing for the payment of Plan benefits to an Alternate Payee must:

1. Include the name, social security number and last known mailing address of both the Member and the Alternate Payee; and
2. Specify whether the Order applies to Article 5 (Old Plan) or Article 3 (New Plan) of the Plan,

i.e., Article 3 or Article 5 of Chapter 5 of the Portland City Charter.

**E. Payment to Alternate Payee Bars Recovery by Another Person**

The Fund Administrator will not honor an Order purporting to require the payment of benefits to an Alternate Payee if the Fund already has an obligation to pay the same benefits to another Alternate Payee because of an earlier Order.

**F. Protection of the Fire and Police Disability and Retirement Fund (Fund)**

The actuarial present value of the benefits to be paid from the Fund to a Member and an Alternate Payee pursuant to an Order may not exceed the present value of the benefits that would be paid to the Member alone, in the absence of such Order. This means that the present value of the benefits payable to the Member and Alternate Payee(s) may not have a present value in excess of the maximum benefit (2.8 percent of the Member's Final Pay times the Member's Years of Service) payable to the Member for the rest of his or her life, with no benefit continuation to survivors.

**G. Time of Payment**

No Order requiring the commencement of payments to an Alternate Payee before the Member's earliest retirement date will be honored. A Member's earliest retirement date is (1) the date the Member attains or would have attained the age of 50 and has or would have had 25 or more Years of Service or (2) the date the Member attains or would have attained the age of 55. The foregoing applies only where the Member is an Active Member, a terminated Member entitled to vested termination benefits, or a retired Member. Guidelines for disabled Members appear in Paragraph I.

**H. Form of Payment**

Only Orders specifying a form of benefit that is available to Members under the Plan will be honored. Consequently, benefit payments to an Alternate Payee

who is a former spouse must be in the form of an annuity for the life of the former spouse only. Orders awarding an Alternate Payee a lump sum payment or a benefit in the form of a joint and survivor annuity will not be honored.

#### **I. Disability Benefits**

1. Orders purporting to require payment of a portion of the disability benefits payable to a Member pursuant to Section 5-306 of the Fire and Police Disability, Retirement and Death Benefit Plan (Plan) (service-connected or occupational disability benefits), will not be honored before the Member attains 55 years of age.
2. In the event that an Order requires the division of a service-connected or occupational disability benefit payable to a Member who has attained 55 years of age, the Board of Trustees will reduce benefit payments to the Member and the Alternate Payee proportionately to reflect any earnings received by the Member while the Member is disabled. Similarly, the Board of Trustees will reduce benefit payments to the Member and the Alternate Payee proportionately to reflect any reduction in benefits to the Member necessitated by the fact that the Member has become Medically Stationary and capable of Substantial Gainful Activity.

For example, if a 55 year old Member is receiving service-connected or occupational disability benefits at the time an order or decree is issued, the total benefit payable to the Member and Alternate Payee is 75% of the Member's Base Pay, reduced by 50% of any earnings received by the Member while he or she remains disabled, until such time as the Member is Medically Stationary and capable of Substantial Gainful Activity. If it is determined that a disabled Member is Medically Stationary and capable of Substantial Gainful Activity the total benefit payable to the Member and Alternate Payee is 50% of the Member's Base Pay reduced by 25% of any earnings received by the Member during the period of disability. If

the Order awards 50% of the Member's benefit to an Alternate Payee and the Member is determined to be Medically Stationary, capable of Substantial Gainful Activity and has other earnings, the benefit payable to the Member and the Alternate Payee will be reduced proportionately in order to ensure that the benefit payable to the Alternate Payee will continue to represent 50% of the total benefit payable to the Member after any reduction in benefits which will occur if the Member is determined to be Medically Stationary, capable of Substantial Gainful Activity and has other earnings.

3. In the event that an Order requires the division of a nonservice-connected disability benefit, the Board of Trustees will reduce benefit payments to the Member and the Alternate Payee proportionately to reflect any Member's earnings while the Member is disabled.

For example, if the Member is receiving a nonservice-connected disability benefit at the time an Order is issued, the total benefit payable to the Member and an Alternate Payee is 50% of the Member's Base Pay minus 50% of any earnings received by the Member while he or she is disabled. If the Order awards 50% of the Member's benefit to an Alternate Payee and the Member receives other earnings while he or she is disabled, the benefit payable to the Member and the Alternate Payee will be reduced proportionately in order to ensure that the benefit payable to the Alternate Payee will continue to represent 50% of the total benefit payable to the Member after the earnings offset.

#### **J. Fees**

The Fund shall charge and collect out of the benefits payable to the Member and the Alternate Payee(s) its actual and reasonable administrative expenses in complying with an Order. Such fee shall not exceed \$300 and shall be allocated between the Member and Alternate Payee(s) based on the fraction of the Plan benefit received by the Member or Alternate Payee.

## II. Methodology

### A. Method of Division

1. In the event that an Order requiring payment of all or part of a Member's benefit to an Alternate Payee is entered before the Member has commenced receiving benefits, the Order must specify the amount or percentage of the Member's benefit (accrued as of a date certain) to be paid to the Alternate Payee.

Note: The actuarial value of the benefit paid to an Alternate Payee will often differ from the percentage of the benefit paid to the Alternate Payee because of age and gender differences between the Member and Alternate Payee. For example, in the case of a male Member with a younger wife, if an Order were to specify that the Member's former spouse is to receive half of the benefit earned by the Member as of a certain date, the actuarial value of the benefit payable to the Member's former spouse would be more than half of the total value of the Member's benefit. Conversely, if the Member's former spouse is to receive half of the present value of the Member's benefit, the former spouse would receive less than half of the Member's benefit amount.

2. If an Order directing payment of all or part of a benefit to an Alternate Payee is entered or modified after the Member has commenced receiving benefits, the Order may specify only that a percentage of the benefits currently being paid to the Member shall be paid to the Alternate Payee.

Note: The distinction between the actuarial value of a benefit and a percentage of the benefit described in the preceding Note also applies in this situation.



**B. The Order may Require that Benefits be Computed Either Immediately or at Some Future Date.**

1. If the benefits are to be computed immediately the Order should describe the amount payable to the Alternate Payee in terms of known current facts and circumstances. For example, the Order may provide that 50% of the benefit earned by the Member as of a specific date, based on the Member's pay and Years of Service as of that date, is to be paid to the Alternate Payee.
2. If the Member's benefit is to be computed at some future date the Order should describe the amount to be paid to the Alternate Payee in terms of facts and circumstances that will be known at some future date. For example, the Order may specify that a certain percentage of the benefit which will be paid to the Member when he or she retires shall be paid to the Alternate Payee.

**III. Benefit Calculation Methodology**

**A. Fund Calculation of Benefits is Exclusive**

Benefit payments to be made to Members and Alternate Payees will be based exclusively on calculations of benefits and actuarial present values performed by the Fund's administrative staff and actuaries. All methods and assumptions used to calculate the benefit payments to Member's and Alternate Payees shall be based upon those assumptions used in the most recent actuarial valuation of the Fund.

In computing the benefit or actuarial present value of the benefit payable to a Member, calculations requiring information that is not known at the time the computation is made will not be made. For example, assumptions concerning a Member's future pay, future Years of Service or future retirement date will not be used to calculate the benefit or actuarial present value of the benefit to be paid to a Member or Alternate Payee.

**B. Unisex Tables**

In computing benefits and actuarial present values, the same actuarial tables will be used for male and female Members. Similarly, in computing benefits and actuarial present values for Alternate Payees, the same actuarial tables will be used for male and female Alternate Payees.

**C. Future Cost of Living Increases**

In calculating the actuarial present value of benefit payments to a Member and Alternate Payee only those cost of living increases granted on an annual basis will be considered. No ad hoc benefit increases will be considered.

fund\domrel.rls

and thereafter remitted to the Secretary of the Treasury of the United States shall not be included in the biennial budget of the Public Employees' Retirement Board as income or expenses of such board. [1953 c.192 §5(4)]

**237.520 Social Security Revolving Account appropriation.** For the purpose of establishing the Social Security Revolving Account created by this Act, there hereby is appropriated out of the General Fund in the State Treasury and transferred to and made a part of the Social Security Revolving Account, the sum of \$5,000. In computing the expenses of administration of ORS 237.410 to 237.520 the Public Employees' Retirement Board, during each of the first five years following the date of the first agreement executed under ORS 237.420, shall include as expenses of administration the sum of \$1,000 in excess of the actual expenses incurred by the board in such year. At the end of the sixth month following the first five years the entire sum of \$5,000 shall be repaid to the General Fund.

#### **PAYMENT OF PUBLIC PENSION TO ALTERNATE PAYEE AFTER MARITAL DISSOLUTION, ANNULMENT OR SEPARATION**

**237.600 Payment to alternate payee; provisions of decree, order or settlement; administrative expenses.** (1) Notwithstanding any other provision of law, payment of any pension, annuity, retirement allowance, disability benefit, death benefit, refund benefit or other benefit under any public employer retirement plan other than the Public Employees' Retirement System that would otherwise be made to a person entitled to benefits under the plan shall be paid, in whole or in part, to an alternate payee if and to the extent expressly provided for in the terms of any court decree of annulment or dissolution of marriage or of separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of annulment or dissolution of marriage or of separation. Notwithstanding any other provisions of this section, the total value of benefits payable to a member and to an alternate payee under this section may not be greater than the value of the benefits the member would otherwise be eligible to receive. Any payment under this subsection to an alternate payee bars recovery by any other person.

(2) A decree, order or settlement providing for payment to an alternate payee under subsection (1) of this section may also provide:

(a) That payments to the alternate payee may commence, at the election of the alternate payee, at any time after the earlier of:

(A) The earliest date the member would be eligible to receive retirement benefits if the member separates from service; or

(B) The date the member actually separates from service due to death, disability, retirement or termination of employment.

(b) That the alternate payee may elect to receive payment in any form of pension, annuity, retirement allowance, disability benefit, death benefit, refund benefit or other benefit, except a benefit in the form of a joint and survivor annuity, available to the member under the public employer retirement plan, or that would be available to the member if the member retired or separated from service at the time of election by the alternate payee, without regard to the form of benefit elected by the member.

(c) That the alternate payee's life is the measuring life for the purposes of measuring payments to the alternate payee under the form of benefit selected by the alternate payee.

(3) Subsection (1) of this section applies only to payments made by the public employer retirement plan after the date of receipt by the administrators of the plan of written notice of the decree, order or agreement and such additional information and documentation as the plan administrators may prescribe.

(4)(a) A decree, order or agreement providing for payment to an alternate payee under subsection (1) of this section may not provide for payment to an alternate payee of:

(A) Any disability payments provided to a member of a public employer retirement plan in lieu of workers' compensation benefits pursuant to ORS 656.027 (6), to the extent those payments are to be made before the member attains 55 years of age; or

(B) Any medical or hospital benefits payable to a member as part of a disability benefit provided to a member of a public employer retirement plan in lieu of workers' compensation benefits pursuant to ORS 656.027 (6), regardless of the member's age.

(b) Paragraph (a) of this subsection does not prevent a court from considering the disability payments described in that paragraph in making a division of property pursuant to ORS 107.105 or an award of support.

(5) Any public employer or public employer retirement plan that is required by the provisions of this section to make a payment to some person other than a member of the retirement plan offered by the public employer shall charge and collect out of the

benefits payable to the member and the other person actual and reasonable administrative expenses and related costs incurred by the public employer or public employer retirement plan in obtaining data and making calculations that are necessary by reason of the provisions of this section. A public employer or public employer retirement plan may not charge more than \$300 for total administrative expenses and related costs incurred in obtaining data or making calculations that are necessary by reason of the provisions of this section. A public employer or public employer retirement plan that charges and collects administrative expenses and related costs under the provisions of this subsection shall allocate those expenses between the member of the retirement plan and any other person receiving a benefit from the plan based on the fraction of the benefit received by the member or person.

(6) As used in this section:

(a) "Court" means any court of appropriate jurisdiction of this or any other state or of the District of Columbia.

(b) "Member" means a person entitled to a benefit from a public employer retirement plan.

(c) "Public employer" means the state, one of its agencies, any city, county, municipal or public corporation, any political subdivision of the state or any instrumentality thereof, or an agency created by two or more such political subdivisions to provide themselves governmental services.

(d) "Public employer retirement plan" means any system, program, annuity, contract or other plan established by a public employer for the purpose of providing a pension, annuity, retirement allowance or disability benefit to officers or employees of the public employer. [1993 c.715 §2]

**Note:** 237.600 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS Chapter 237 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**Note:** Sections 3 and 4, chapter 715, Oregon Laws 1993, provide:

**Sec. 3.** Within 90 days of the effective date of this Act [November 4, 1993], the Public Employees' Retirement Board and the administrator of any public employer retirement plan as defined in section 2 of this Act [237.600] shall mail an explanation of the provisions of this Act to all persons who have previously notified the Public Employees' Retirement System or the public employer retirement plan of a decree, order or settlement awarding a pension, annuity, retirement allowance, disability benefit, death benefit, refund benefit or other benefit. [1993 c.715 §3]

**Sec. 4.** (1) Except as provided in subsection (2) of this section, the amendments to ORS 237.205 by section 1 of this Act and section 2 of this Act [237.600] apply only to decrees or orders entered or modified on or after the effective date of this Act [November 4, 1993].

(2) The amendments to ORS 237.205 by section 1 of this Act and section 2 of this Act apply to decrees and orders entered before the effective date of this Act if no benefit has been paid before the effective date of this Act to either spouse and only to the extent that application is not inconsistent with the terms of the decree or order. If the spouse or former spouse elects to receive a benefit in a form other than the form provided for in the decree or order entered before the effective date of this Act, the member is released from any restriction or direction in the decree or order regarding selection of the form of benefit. [1993 c.715 §4]

## COVERAGE FOR POLICE OFFICERS AND FIRE FIGHTERS

**237.610 Definitions for ORS 237.610 and 237.620.** As used in this section and ORS 237.620:

(1) "Fire fighter" means:

(a) Persons employed by a city, county or district whose duties involve fire fighting, but does not include volunteer fire fighters; and

(b) The State Fire Marshal and the chief deputy fire marshal and deputy state fire marshals appointed under ORS 476.040.

(2) "Police officer" includes police chiefs and police officers of a city who are classified as police officers by the council or other governing body of the city; sheriffs and those deputy sheriffs whose duties, as classified by the county governing body, are the regular duties of police officers; county adult parole and probation officers, as defined in ORS 181.610, who are classified by the county governing body for purposes of this section and ORS 237.620; corrections officers as defined in ORS 181.610; employees of districts whose duties, as classified by the governing body of the district, are the regular duties of police officers; and investigators of the Criminal Justice Division of the Department of Justice; but "police officer" does not include volunteer or reserve police officers or persons considered by the respective governing bodies to be civil deputies or clerical personnel.

(3) "Public employer" means any city, county or district that employs police officers or fire fighters. [1971 c.692 §2; 1973 c.19 §2; 1979 c.656 §6; 1981 c.479 §1; 1989 c.614 §2; 1991 c.67 §55]

**237.620 Membership of police officers and fire fighters.** (1) On or before July 1, 1973, all public employers of police officers and fire fighters who are not participants in the Public Employees' Retirement System shall become participants in the system with respect to the police officers and fire fighters employed by them.

(2) All police officers and fire fighters in the employ of the public employer on the date the public employer becomes a participant in the system under subsection (1) of this section shall establish membership under