

HOUSE BILL REPORT

HB 1229

As Reported By House Committee On:

Law & Justice

Title: An act relating to public employment.

Brief Description: Modifying options for payment of retirement allowances.

Sponsors: Representatives Sheahan and Appelwick.

Brief History:

Committee Activity:

Law & Justice: 1/31/95, 2/10/95 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

Staff: Pat Shelledy (786-7149).

Background:

General Background on Payment of Retirement Benefits:

Upon retirement, a member of the state retirement system must choose among various options for payment of the member's retirement allowance.

A member may select a "standard allowance" which is payable throughout the member's life. If the member dies before the member's accumulated contributions are exhausted, the balance is paid to a person who has an insurable interest in the retiree's life. The member nominates that person. If the member does not nominate a person, then the residue goes to the surviving spouse if the member is married. If the member is not married, the residue goes to the member's estate.

A member may elect to receive a "reduced benefit," which pays the member less money during the member's life but provides that the reduced benefit will continue to

be paid after the member's death to a person who has an insurable interest in the member's life. That person is referred to as the "survivor beneficiary." The member must nominate the survivor beneficiary in writing. The nomination must be filed with the Department of Retirement Systems when the member retires.

If a member is married, the spouse must provide written consent to the member's selected option. If the member's spouse does not consent, the department must pay the member a reduced benefit and name the spouse as the survivor beneficiary.

Impact of Divorce on Payment of Retirement Benefits:

If retirement benefits have accumulated during a spouse's marriage, those benefits are considered community property under Washington's community property laws, and are subject to the court's power to equitably divide the couple's property upon divorce. Under current law, a court may order the department to pay an ex-spouse part of the member's retirement benefits to satisfy a property division obligation. The court may also order the department to designate the ex-spouse as a survivor beneficiary.

The member's selected option and named beneficiary may conflict with a court order directing the member to select a reduced benefit with survivor benefits nominating the member's ex-spouse as the beneficiary. Apparently, the department's position is that, absent legislation directing the department to comply with a court order, a court order does not override current statutory language that allows a member to select a payment option and name a beneficiary.

Complications of Subsequent Marriages and Divorces on Payment of Retirement Benefits:

If a member remarries following divorce, further complications arise concerning the new spouse's right of consent to designation of a survivor beneficiary.

If a member is divorced a second or subsequent time, the department may receive conflicting dissolution orders regarding distribution of the member's retirement benefits.

Summary of Substitute Bill:

Designation of a Survivor Beneficiary Upon Divorce:

If the department is served with a dissolution order that requires the department to designate an ex-spouse as a survivor beneficiary entitled to a particular survivor option, the department must comply with the court order.

The order must be served on the department by registered or certified mail at least 30 days before the member's retirement. The order must clearly name the survivor and the designated survivor benefit. The department will not be liable for failure to comply with the court order if it is not served on the department at least 30 days before the member's retirement.

An ex-spouse's right to a survivor benefit ceases upon death of the ex-spouse.

If a member remarries, spousal consent is not required for the department to comply with the court order.

Impact of Subsequent Dissolution Orders:

If a subsequent dissolution order is filed that directs the department to divide a survivor benefit between the first ex-spouse and a second or subsequent spouse or ex-spouse (alternate payee), the department must honor the subsequent dissolution order under certain circumstances. First, the survivor beneficiary must receive notice before the order is entered. Second, the dissolution order must specify the proportional division of the benefit to the survivor beneficiary and alternate payee. Third, the order must specifically amend or supersede the dissolution order already on file with the department. Fourth, the order must be filed with the department at least 30 days prior to the member's retirement.

The department will calculate the actuarial adjustment for the survivor benefit based on the life of the survivor beneficiary. If the survivor beneficiary dies, the benefit terminates. If the alternate payee predeceases the survivor beneficiary, the alternate payee's benefit will revert to the survivor beneficiary.

State retirement programs affected by the change include the following: Judges, law enforcement and firefighters, teachers, and public employees.

Substitute Bill Compared to Original Bill: A technical amendment is added to indicate that dissolution orders must be served on the department within at least 30 days prior to the member's retirement.

Appropriation: None.

Fiscal Note: Requested January 30, 1995.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill will give effect to court orders that allow a former spouse to be designated a survivor beneficiary of an ex-spouse who is a member of the state retirement system.

Testimony Against: None.

Testified: Paul Neal, Washington Department of Retirement Systems (pro).