

HOUSE BILL REPORT

HB 2393

As Reported by House Committee On:
Appropriations

Title: An act relating to creating new survivor benefit division options for divorced members of the law enforcement officers' and fire fighters' retirement system, the teachers' retirement system, the school employees' retirement system, the public employees' retirement system, and the Washington state patrol retirement system.

Brief Description: Creating new survivor benefit division options for divorced members of the law enforcement officers' and fire fighters' retirement system, the teachers' retirement system, the school employees' retirement system, the public employees' retirement system, and the Washington state patrol retirement system.

Sponsors: Representatives Alexander, Doumit, Morell, Rockefeller, Linville, Edwards, Lovick, O'Brien, Woods and Haigh; by request of Joint Committee on Pension Policy.

Brief History:

Committee Activity:

Appropriations: 1/24/02, 2/5/02 [DP].

Brief Summary of Bill

- Provides greater flexibility in dividing retirement benefits in the event of a divorce for members of the Public Employees' Retirement System, the School Employees' Retirement System, the Teachers' Retirement System, the Washington State Patrol Retirement System, and the Law Enforcement Officers' and Fire Fighters' Retirement System.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 22 members: Representatives Sommers, Chair; Doumit, 1st Vice Chair; Fromhold, 2nd Vice Chair; Sehlin, Ranking Minority Member; Alexander, Boldt, Cody, Cox, Dunshee, Grant, Kagi, Kenney, Kessler, Linville, Lisk, McIntire, Pearson, Pflug, Ruderman, Schual-Berke, Talcott and Tokuda.

Minority Report: Without recommendation. Signed by 2 members: Representatives Buck and Clements.

Staff: Andrea Hardy (786-7349).

Background:

Joint and survivor benefits provide continuing benefits to a survivor after the death of the member. Before retirement, the pre-selection of a survivor benefit may be the only way the non-member spouse can be protected with a lifetime benefit. After retirement, there is no way to revoke or alter the survivor benefit, even if the member's personal circumstances change because of marriage, divorce, or death of a spouse.

Regarding survivor benefits, there are two types of plans in the state retirement system: (1) plans providing an automatic survivor benefit; and (2) plans offering an optional survivor benefit.

Plans Offering an Automatic Survivor Benefit

The Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 1 (LEOFF 1) and the Washington State Patrol Retirement System (WSPRS) are both automatic plans. This means that spousal survivor benefits are provided as part of the basic pension benefit and require no actuarial reduction of the pension benefit. Assuming a qualifying spouse is present, a joint and survivor benefit for qualified spouses is automatically included in the retirement allowance received by retirees of LEOFF 1 and WSPRS. A qualified spouse for LEOFF 1 is a spouse married to a member one year prior to retirement or at the time of the disability. A qualified spouse for the WSP is a spouse married to the member two years prior to retirement.

Plans Offering an Optional Survivor Benefit

Public Employees' Retirement System, Plans 1 and 2 (PERS 1 and 2), Teachers' Retirement System, Plans 1, 2, and 3 (TRS 1, 2 and 3), and School Employees' Retirement System, Plans 2 and 3 (SERS 2 and 3) are all optional survivor benefit plans. This means that members who elect to have a survivor benefit for a spouse or other designated person must take an actuarial reduction in their pension benefit to do so. The amount of the reduction is based on three factors: (1) The difference in the age of the member and designated survivor; (2) the expected survivor's benefit; and (3) the member's retirement system and plan.

Members of PERS 1 and 2, TRS 1, 2 and 3, SERS 2 and 3, and LEOFF 2 all have the option of including joint and survivor coverage as part of their pension benefit. The monthly pension of a retiree who chooses a survivor benefit is reduced to pay for the survivor benefit. The designation of the retiree's beneficiary, who may be someone other than a spouse, must be made at the time of retirement. The beneficiary designation cannot be modified even if the retiree's personal circumstances change.

Summary of Bill:

For members who divorce in the future, new options for dividing survivor benefits consistent with community property and divorce laws are created.

Plans Offering an Automatic Survivor Benefit

A new option for survivor benefits is created that permits the divorcing spouse at the time of the divorce by way of court decree to claim not only a portion of the member's benefit, but also a portion of any future spouse's survivor benefit. The proposal also incorporates the addition of an optional, actuarially reduced spousal survivor benefit during a window opening one year after a post-retirement marriage, similar to the post-retirement marriage option added to the optional plans by the 2000 Legislature.

Plans Offering an Optional Survivor Benefit

The Department of Retirement Systems must adopt rules by July 1, 2003, to make a new survivor option available at divorce. The new rules must provide for a division of the total benefits of the member and divorcing spouse into two separate, single-life benefits payable for the life of that individual. The creation of the two separate benefits is done.

If the above division occurs before the member retires and the member later remarries, that member will remain subject to the spousal survivor benefit requirements when he or she retires. Subsequent reductions to create new survivor benefits will be made solely to the member's remaining benefit; the separate, single-life benefit created for the non-member spouse in the earlier divorce will not be affected. The divorced spouse of the member will be eligible to begin receiving their survivor benefit when they reach normal retirement age under the plan of their divorced spouse - age 60 in PERS 1, TRS 1, and SERS 1, and age 65 in PERS 2 and 3, TRS 2 and 3, SERS 2 and 3, and LEOFF 2.

If the divorce occurs after the member retires, the separate single-life benefit option described above will only be available to spouses who chose a survivor benefit for the non-member spouse at retirement. In this instance, the non-member spouse will be eligible to begin receiving their benefit immediately. If the retired member elects to later remarry and create a new survivor benefit, the member's single-life benefit will be actuarially reduced, without impact on the ex-spouse's single life benefit.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: There are several advantages to this legislation and it should be supported because it takes nothing away from the member, and takes nothing away from the retirement systems.

However, there are situations this bill still does not address. For example, there is a particular situation in which a husband and wife divorce because of the abusive nature of the relationship. In the divorce decree, the ex-spouse receives half of the member's benefit. However, since the member is in LEOFF 1, there is no survivor benefit for the ex-wife, so when the member dies, the ex-wife's benefit will terminate. This is because the divorce decree could not have determined otherwise. This bill should also cover that type of situation retroactively.

Testimony Against: This bill should be retroactive. If someone has a pre-retirement divorce, and the court divides the regular retirement benefit, under current law survivor benefits terminate when the member dies. It should be possible under the bill to go back and address previous divorces.

The bill also provides for an optional survivor benefit for LEOFF 1 members who want to take an actuarial reduction in their pension benefit. The option is not equitable because the actuarial reduction is very large, and a member could not reasonably live on the remaining pension. Further, this option lends itself to anti-selection. If a member knows that they are terminally ill, they might take the reduction so that their spouse would have a benefit.

Testified: (In support) Charlie Marsh, Retired Police Officers Association.

(With comments) David Pringle, Office of the State Actuary.

(With concerns) Larry Erickson, Washington Association of Sheriffs and Police Chiefs.

(Opposed) Dick Warbrouck, Retired Fire Fighters of Washington.