

SENATE BILL REPORT

ESB 6380

As Passed Senate, February 18, 2002

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: Senators Winsley, Fraser, Carlson, Spanel, Jacobsen, Regala, Rasmussen, McAuliffe and Kohl-Welles; by request of Joint Committee on Pension Policy.

Brief History:

Committee Activity: Ways & Means: 2/4/02, 2/5/02 [DP].

Passed Senate: 2/18/02, 47-1.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Brown, Chair; Regala, Vice Chair; Fairley, Vice Chair; Fraser, Hewitt, Honeyford, Kline, Kohl-Welles, Long, Poulsen, Rasmussen, Rossi, B. Sheldon, Spanel, Thibaudeau and Zarelli.

Staff: Erin Hannan (786-7708)

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. The bill 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.

Ex-spouses of LEOFF 1 members who divorced the member after at least 30 years of marriage, including at least 20 years during the member's employment, continue to receive any benefits awarded to them by a court order even after the member's death. Ex-spouses whose split benefits were terminated with the death of the member begin to receive payments as though the member had not died.

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.

If the above division occurs before the member retires and the member later remarries, that member remains subject to the spousal survivor benefit requirements when he or she retires. Subsequent reductions to create new survivor benefits are made solely to the member's remaining benefit; the separate, single-life benefit created for the non-member spouse in the earlier divorce is not affected. The divorced spouse of the member is 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 is only available to spouses who chose a survivor benefit for the non-member spouse

at retirement. In this instance, the non-member spouse is 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 is 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: SB 6380 enables new spouses to be taken care of after a member dies and allows the member to take a reduction to their benefits to cover the new spouse. The bill helps LEOFF 1 members and does not affect the LEOFF 1 pension fund. Some members are still left out of the bill because the division of benefits is made pre-retirement and some spouses may not receive a survivor benefit after post-retirement divorce.

Testimony Against: None.

Testified: Senator Winsley (pro); Charlie Marsh, WA State Assoc. of Retired Officers (pro); Larry Erickson, WASPC (pro).

House Amendment(s): For plans offering an automatic survivor benefit, an ex-spouse is enabled to claim a portion of a future spouse's benefit. Additionally, persons who became surviving spouses prior to 1977 are able to remarry without losing their survivor benefits. This is consistent with current practice with regard to persons who became surviving spouses after 1977.

Finally, the LEOFF 1 provisions regarding the continuation of split benefits after the death of a member are changed. Criteria for continuation are as follows: the marriage lasted 25 years or more, the member had at least 30 years of service, and the divorce occurred on or after January 1, 1997.