

HOUSE BILL REPORT

HB 3137

As Reported by House Committee On:

Appropriations
Transportation

Title: An act relating to benefits for surviving spouses of disabled Washington state patrol officers.

Brief Description: Determining benefits for surviving spouses of disabled Washington state patrol officers.

Sponsors: Representatives Lovick, Curtis, Clements, Hunt, Grant, Ericks, Conway, Morrell, Simpson and Kenney; by request of Department of Retirement Systems.

Brief History:

Committee Activity:

Appropriations: 1/30/06, 1/31/06 [DP];
Transportation: 2/3/06, 2/6/06 [DPS].

Brief Summary of Substitute Bill

- Defines average final salary for disabled members of the Washington State Patrol Retirement System (WSPRS) commissioned before January 1, 2003, who have been retired on disability, as the two year average monthly salary of current active members of the Washington State Patrol (WSP) of the same rank.
- Defines average final salary for disabled members of the WSPRS commissioned on or after January 1, 2003, who have been retired on disability, as the five year average monthly salary of current active members of the WSP of the same rank.
- Requires increased benefit costs related to the change in definition of average final salary for WSPRS members disabled prior to July 1, 2006, to be paid solely by the employer.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 31 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Chandler, Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi,

Kenney, Kessler, Linville, McDermott, McIntire, Miloscia, Pearson, Priest, Schual-Berke, P. Sullivan, Talcott and Walsh.

Staff: David Pringle (786-7310).

Background:

The Washington State Patrol Retirement System (WSPRS) covers all commissioned officers of the Washington State Patrol (WSP). The WSPRS was created in 1947, and until January 1, 2003, was the only state administered retirement system that still contained many of the plan provisions that were altered or eliminated for new members in the creation of plans 2 or 3 in other retirement systems.

Members of WSPRS may retire at age 55 or after 25 years of service at any age. It is also the only plan operated by Washington with mandatory retirement at age 60.

The contribution rates for the members and employers of the WSPRS are equal, however the member rate may be no less than 2 percent of pay. For the 2005-07 biennium, the contribution rate for both members and employers is 4.51 percent of pay.

For members who joined the WSPRS prior to January 1, 2003, the survivor allowance for post-retirement deaths is the lesser of 50 percent of the member's average final salary, or the member's retirement allowance. In many cases, the survivor benefit will be less than the member's benefit at time of death, because it is based on a salary that may be 20 or more years old, and the members' benefit has been annually increased many times since. This basic survivor benefit for retired members does not require members to reduce their benefit; however, a member has the option of taking an actuarial reduction, and having the survivor receive full continuation of that reduced benefit when the member dies.

Members of the WSPRS judged by the Chief to be disabled while performing line duty may be placed on disability leave for up to six months, and then are placed on disability retirement status. A member on disability retirement status is entitled to receive a benefit of one-half of the existing wage during the time the disability continues in effect. When the existing wage for a position is increased during a disabled member's disability retirement, the disability benefit correspondingly increases.

The surviving spouse of a disabled member of WSPRS is eligible, similar to the surviving spouse of a retiree, for a benefit equal to the lesser of 50 percent of the member's average final salary, or the member's earned retirement allowance. Similarly to the survivor benefit for members that retire, average final salary has been interpreted to mean the member's average salary at the time the member left active duty, so the salary may be 20 or more years old by the time the disability survivor benefit is calculated. Because a disabled member may not have earned a retirement benefit based on an entire career of employment, it is more likely that their survivor would receive a benefit based on 50 percent of the member's average final salary.

In civil court actions claiming a breach of pension-related benefits, such as improper calculation of benefits, a three-year statute of limitations applies. The statute of limitations bars actions against the state for failure to pay pension benefits if the beneficiary fails to begin a legal challenge within three years.

The Department of Retirement Systems (DRS) is empowered at any time to correct administrative errors in retirement system member files to ensure that determinations, such as plan eligibility and benefit calculations, made for members and beneficiaries are correct.

In June of 2005, DRS settled an individual lawsuit by increasing the monthly survivor allowance of a survivor of a disabled WSPRS member from 50 percent of the disabled member's average final salary at time of disablement, to 50 percent of the equivalent current salary over the two years prior to the disabled member's death.

Summary of Bill:

The average final salary, for purposes of calculating the survivor benefit for a member who entered WSPRS prior to January 1, 2003, and became disabled, is the average monthly salary received by active members of the WSP during the two years prior to the death of the disabled member.

The average final salary, for purposes of calculating the survivor benefit for a member who entered WSPRS on or after January 1, 2003, and became disabled, is the average monthly salary received by active members of the WSP during the five years prior to the death of the disabled member.

The cost of the increased contribution rates necessary to pay for the increased survivor benefits resulting from the change in definition of average final salary is, for members disabled prior to July 1, 2006, paid for solely by the employer.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: I know about the situation of disabled troopers and their survivors. The "Truman" case requires this change to be made in the case of that plaintiff. The trooper in the Truman case was disabled when he was earning about \$800, and his surviving spouse was only going to get a benefit of about \$400, as compared to the \$2,500 per month that he was receiving as a disability benefit. We would be taking better care of these surviving spouses.

Testimony Against: None.

Persons Testifying: Representative Lovick, prime sponsor; Jeff DeVere, Washington State Patrol; and Adisa Muse and Dave Nelsen, Department of Retirement Systems.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Murray, Chair; Wallace, Vice Chair; Woods, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Appleton, Buck, Campbell, Clibborn, Curtis, Dickerson, Ericksen, Flannigan, Hankins, Holmquist, Hudgins, Jarrett, Kilmer, Lovick, Morris, Nixon, Rodne, Schindler, Sells, Shabro, Simpson, B. Sullivan, Takko, Upthegrove and Wood.

Staff: Jerry Long (786-7306).

Summary of Recommendation of Committee On Transportation Compared to Recommendation of Committee On Appropriations:

Defines average final salary for disabled members of the Washington State Patrol

- Retirement System (WSPRS) commissioned before January 1, 2003, who have been retired on disability, as the two year average monthly salary of current active members of the Washington State Patrol (WSP) of the same rank.
- Defines average final salary for disabled members of the WSPRS commissioned on or after January 1, 2003, who have been retired on disability, as the five year average monthly salary of current active members of the WSP of the same rank.
- Requires increased benefit costs related to the change in definition of average final salary for WSPRS members disabled prior to July 1, 2006, to be paid solely by the employer.
- Clarifies that Department of Retirement Systems has the authority to correct past and future payments to the survivors.
- The supplemental contribution rate increase is delayed until July 1, 2007.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except for section 3, relating to not imposing a supplemental pension rate, which takes effect on July 1, 2006.

Testimony For: Based on the court case won by a surviving spouse in Superior Court in Chelan County, the final average compensation amount that Department of Retirement Systems has been computing the surviving spouses benefits on has been incorrect. Some of the compensation amounts used are twenty years old which has resulted in surviving spouses being greatly under compensated.

Testimony Against: None.

Persons Testifying: Representative Lovick, prime sponsor; David Nelsen, Department of Retirement; and Jeff Devere, Washington State Patrol.

Persons Signed In To Testify But Not Testifying: None.