

SSB 5439 - S AMD 164
By Senator Swecker

1 Beginning on page 7, line 17, strike all of sections 3 and 4 and
2 insert the following:

3 "Sec. 3. RCW 43.43.270 and 2006 c 94 s 1 are each amended to read
4 as follows:

5 For members commissioned prior to January 1, 2003:

6 (1) The normal form of retirement allowance shall be an allowance
7 which shall continue as long as the member lives.

8 (2) If a member should die while in service the member's lawful
9 spouse shall be paid an allowance which shall be equal to fifty percent
10 of the average final salary of the member. If the member should die
11 after retirement the member's lawful spouse shall be paid an allowance
12 which shall be equal to the retirement allowance then payable to the
13 member or fifty percent of the final average salary used in computing
14 the member's retirement allowance, whichever is less. The allowance
15 paid to the lawful spouse shall continue as long as the spouse lives:
16 PROVIDED, That if a surviving spouse who is receiving benefits under
17 this subsection marries another member of this retirement system who
18 subsequently predeceases such spouse, the spouse shall then be entitled
19 to receive the higher of the two survivors' allowances for which
20 eligibility requirements were met, but a surviving spouse shall not
21 receive more than one survivor's allowance from this system at the same
22 time under this subsection. To be eligible for an allowance the lawful
23 surviving spouse of a retired member shall have been married to the
24 member prior to the member's retirement and continuously thereafter
25 until the date of the member's death or shall have been married to the
26 retired member at least two years prior to the member's death. The
27 allowance paid to the lawful spouse may be divided with an ex spouse of
28 the member by a dissolution order as defined in RCW 41.50.500(3)
29 incident to a divorce occurring after July 1, 2002. The dissolution

1 order must specifically divide both the member's benefit and any
2 spousal survivor benefit, and must fully comply with RCW 41.50.670 and
3 41.50.700.

4 (3) If a member should die, either while in service or after
5 retirement, the member's surviving unmarried children under the age of
6 eighteen years shall be provided for in the following manner:

7 (a) If there is a surviving spouse, each child shall be entitled to
8 a benefit equal to five percent of the final average salary of the
9 member or retired member. The combined benefits to the surviving
10 spouse and all children shall not exceed sixty percent of the final
11 average salary of the member or retired member; and

12 (b) If there is no surviving spouse or the spouse should die, the
13 child or children shall be entitled to a benefit equal to thirty
14 percent of the final average salary of the member or retired member for
15 one child and an additional ten percent for each additional child. The
16 combined benefits to the children under this subsection shall not
17 exceed sixty percent of the final average salary of the member or
18 retired member. Payments under this subsection shall be prorated
19 equally among the children, if more than one.

20 (4) If a member should die in the line of duty while employed by
21 the Washington state patrol, the member's surviving children under the
22 age of twenty years and eleven months if attending any high school,
23 college, university, or vocational or other educational institution
24 accredited or approved by the state of Washington shall be provided for
25 in the following manner:

26 (a) If there is a surviving spouse, each child shall be entitled to
27 a benefit equal to five percent of the final average salary of the
28 member. The combined benefits to the surviving spouse and all children
29 shall not exceed sixty percent of the final average salary of the
30 member;

31 (b) If there is no surviving spouse or the spouse should die, the
32 unmarried child or children shall be entitled to receive a benefit
33 equal to thirty percent of the final average salary of the member or
34 retired member for one child and an additional ten percent for each
35 additional child. The combined benefits to the children under this
36 subsection shall not exceed sixty percent of the final average salary.
37 Payments under this subsection shall be prorated equally among the
38 children, if more than one; and

1 (c) If a beneficiary under this subsection reaches the age of
2 twenty-one years during the middle of a term of enrollment the benefit
3 shall continue until the end of that term.

4 (5) If a member should die, either while in service or after
5 retirement, and at the time of the member's death the member has no
6 surviving spouse or unmarried children under the age of eighteen years,
7 but the member does have a current state registered domestic partner,
8 then the member's state registered domestic partner shall be paid an
9 allowance which shall be equal to fifty percent of the average final
10 salary of the member.

11 (6)(a) The provisions of this section shall apply to members who
12 have been retired on disability as provided in RCW 43.43.040 if the
13 officer was a member of the Washington state patrol retirement system
14 at the time of such disability retirement.

15 (b) For the purposes of this subsection, average final salary as
16 used in subsection (2) of this section means:

17 (i) For members commissioned prior to January 1, 2003, the average
18 monthly salary received by active members of the patrol of the rank at
19 which the member became disabled, during the two years prior to the
20 death of the disabled member; and

21 (ii) For members commissioned on or after January 1, 2003, the
22 average monthly salary received by active members of the patrol of the
23 rank at which the member became disabled, during the five years prior
24 to the death of the disabled member.

25 (c) The changes to the definitions of average final salary for the
26 survivors of disabled members in this subsection shall apply
27 retroactively. The department shall correct future payments to
28 eligible survivors of members disabled prior to June 7, 2006, and, as
29 soon as administratively practicable, pay each survivor a lump sum
30 payment reflecting the difference, as determined by the director,
31 between the survivor benefits previously received by the member, and
32 those the member would have received under the definitions of average
33 final salary created in chapter 94, Laws of 2006.

34 **Sec. 4.** RCW 43.43.271 and 2003 c 294 s 14 are each amended to read
35 as follows:

36 (1) A member commissioned on or after January 1, 2003, upon

1 retirement for service as prescribed in RCW 43.43.250 shall elect to
2 have the retirement allowance paid pursuant to the following options,
3 calculated so as to be actuarially equivalent to each other.

4 (a) Standard allowance. A member electing this option shall
5 receive a retirement allowance payable throughout the member's life.
6 However, if the retiree dies before the total of the retirement
7 allowance paid to the retiree equals the amount of the retiree's
8 accumulated contributions at the time of retirement, then the balance
9 shall be paid to the member's estate, or such person or persons, trust,
10 or organization as the retiree shall have nominated by written
11 designation duly executed and filed with the department; or if there be
12 no such designated person or persons still living at the time of the
13 retiree's death, then to the surviving spouse; or if there be neither
14 such designated person or persons still living at the time of death nor
15 a surviving spouse, then to the retiree's legal representative.

16 (b) The department shall adopt rules that allow a member to select
17 a retirement option that pays the member a reduced retirement allowance
18 and upon death, such portion of the member's reduced retirement
19 allowance as the department by rule designates shall be continued
20 throughout the life of and paid to a designated person. Such person
21 shall be nominated by the member by written designation duly executed
22 and filed with the department at the time of retirement. The options
23 adopted by the department shall include, but are not limited to, a
24 joint and one hundred percent survivor option and a joint and fifty
25 percent survivor option.

26 (2)(a) A member, if married, must provide the written consent of
27 his or her spouse to the option selected under this section, except as
28 provided in (b) of this subsection. If a member is married and both
29 the member and member's spouse do not give written consent to an option
30 under this section, the department will pay the member a joint and
31 fifty percent survivor benefit and record the member's spouse as the
32 beneficiary. This benefit shall be calculated to be actuarially
33 equivalent to the benefit options available under subsection (1) of
34 this section unless spousal consent is not required as provided in (b)
35 of this subsection.

36 (b) If a copy of a dissolution order designating a survivor
37 beneficiary under RCW 41.50.790 has been filed with the department at
38 least thirty days prior to a member's retirement:

1 (i) The department shall honor the designation as if made by the
2 member under subsection (1) of this section; and

3 (ii) The spousal consent provisions of (a) of this subsection do
4 not apply.

5 (3) No later than January 1, 2003, the department shall adopt rules
6 that allow a member additional actuarially equivalent survivor benefit
7 options, and shall include, but are not limited to:

8 (a)(i) A retired member who retired without designating a survivor
9 beneficiary shall have the opportunity to designate their spouse from
10 a postretirement marriage as a survivor during a one-year period
11 beginning one year after the date of the postretirement marriage
12 provided the retirement allowance payable to the retiree is not subject
13 to periodic payments pursuant to a property division obligation as
14 provided for in RCW 41.50.670.

15 (ii) A member who entered into a postretirement marriage prior to
16 the effective date of the rules adopted pursuant to this subsection and
17 satisfies the conditions of (a)(i) of this subsection shall have one
18 year to designate their spouse as a survivor beneficiary following the
19 adoption of the rules.

20 (b) A retired member who elected to receive a reduced retirement
21 allowance under this section and designated a nonspouse as survivor
22 beneficiary shall have the opportunity to remove the survivor
23 designation and have their future benefit adjusted.

24 (c) The department may make an additional charge, if necessary, to
25 ensure that the benefits provided under this subsection remain
26 actuarially equivalent.

27 (4) No later than July 1, 2003, the department shall adopt rules to
28 permit:

29 (a) A court-approved property settlement incident to a court decree
30 of dissolution made before retirement to provide that benefits payable
31 to a member who has completed at least five years of service and the
32 member's divorcing spouse be divided into two separate benefits payable
33 over the life of each spouse.

34 The member shall have available the benefit options of subsection
35 (1) of this section upon retirement, and if remarried at the time of
36 retirement remains subject to the spousal consent requirements of
37 subsection (2) of this section. Any reductions of the member's benefit

1 subsequent to the division into two separate benefits shall be made
2 solely to the separate benefit of the member.

3 The nonmember ex spouse shall be eligible to commence receiving
4 their separate benefit upon reaching the ages provided in RCW
5 43.43.250(2) and after filing a written application with the
6 department.

7 (b) A court-approved property settlement incident to a court decree
8 of dissolution made after retirement may only divide the benefit into
9 two separate benefits payable over the life of each spouse if the
10 nonmember ex spouse was selected as a survivor beneficiary at
11 retirement.

12 The retired member may later choose the survivor benefit options
13 available in subsection (3) of this section. Any actuarial reductions
14 subsequent to the division into two separate benefits shall be made
15 solely to the separate benefit of the member.

16 Both the retired member and the nonmember divorced spouse shall be
17 eligible to commence receiving their separate benefits upon filing a
18 copy of the dissolution order with the department in accordance with
19 RCW 41.50.670.

20 (c) The department may make an additional charge or adjustment if
21 necessary to ensure that the separate benefits provided under this
22 subsection are actuarially equivalent to the benefits payable prior to
23 the decree of dissolution.

24 (5) If a member should die, either while in service or after
25 retirement, and at the time of the member's death the member has no
26 surviving spouse or unmarried children under the age of eighteen years,
27 but the member does have a current state registered domestic partner,
28 then the member's state registered domestic partner shall be paid an
29 allowance which shall be equal to fifty percent of the average final
30 salary of the member."

EFFECT: Establishes priority for a member's unmarried children
under the age of eighteen over the member's state registered domestic
partner for receipt of certain benefits that are payable upon the
member's death.

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