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HOUSE BILL 2678

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State of Washington

66th Legislature

2020 Regular Session

**By** Representatives Bergquist, Griffey, Lovick, Sullivan, Ortiz-Self, Davis, Tharinger, Fitzgibbon, and Morgan; by request of LEOFF Plan 2 Retirement Board

Read first time 01/17/20. Referred to Committee on Appropriations.

1 AN ACT Relating to allowing retirees to change their survivor  
2 option election after retirement; and amending RCW 41.26.460.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 41.26.460 and 2019 c 102 s 1 are each amended to  
5 read as follows:

6 (1) Upon retirement for service as prescribed in RCW 41.26.430 or  
7 disability retirement under RCW 41.26.470, a member shall elect to  
8 have the retirement allowance paid pursuant to the following options,  
9 calculated so as to be actuarially equivalent to each other.

10 (a) Standard allowance. A member electing this option shall  
11 receive a retirement allowance payable throughout such member's life.  
12 However, if the retiree dies before the total of the retirement  
13 allowance paid to such retiree equals the amount of such retiree's  
14 accumulated contributions at the time of retirement, then the balance  
15 shall be paid to the member's estate, or such person or persons,  
16 trust, or organization as the retiree shall have nominated by written  
17 designation duly executed and filed with the department; or if there  
18 be no such designated person or persons still living at the time of  
19 the retiree's death, then to the surviving spouse or domestic  
20 partner; or if there be neither such designated person or persons

1 still living at the time of death nor a surviving spouse or domestic  
2 partner, then to the retiree's legal representative.

3 (b) The department shall adopt rules that allow a member to  
4 select a retirement option that pays the member a reduced retirement  
5 allowance and upon death, such portion of the member's reduced  
6 retirement allowance as the department by rule designates shall be  
7 continued throughout the life of and paid to a designated person.  
8 Such person shall be nominated by the member by written designation  
9 duly executed and filed with the department at the time of  
10 retirement. The options adopted by the department shall include, but  
11 are not limited to, a joint and one hundred percent survivor option  
12 and a joint and fifty percent survivor option.

13 (2)(a) A member, if married or a domestic partner, must provide  
14 the written consent of his or her spouse or domestic partner to the  
15 option selected under this section, except as provided in (b) and (c)  
16 of this subsection. If a member is married or a domestic partner and  
17 both the member and member's spouse or domestic partner do not give  
18 written consent to an option under this section, the department will  
19 pay the member a joint and fifty percent survivor benefit and record  
20 the member's spouse or domestic partner as the beneficiary. Such  
21 benefit shall be calculated to be actuarially equivalent to the  
22 benefit options available under subsection (1) of this section unless  
23 spousal or domestic partner consent is not required as provided in  
24 (b) and (c) of this subsection.

25 (b) Written consent from a spouse or domestic partner is not  
26 required if a member who is married or a domestic partner selects a  
27 joint and survivor option under subsection (1)(b) of this section and  
28 names the member's spouse or domestic partner as the survivor  
29 beneficiary.

30 (c) If a copy of a dissolution order designating a survivor  
31 beneficiary under RCW 41.50.790 has been filed with the department at  
32 least thirty days prior to a member's retirement:

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

35 (ii) The spousal or domestic partner consent provisions of (a) of  
36 this subsection do not apply.

37 (3)(a) Any member who retired before January 1, 1996, and who  
38 elected to receive a reduced retirement allowance under subsection  
39 (1)(b) or (2) of this section is entitled to receive a retirement

1 allowance adjusted in accordance with (b) of this subsection, if they  
2 meet the following conditions:

3 (i) The retiree's designated beneficiary predeceases or has  
4 predeceased the retiree; and

5 (ii) The retiree provides to the department proper proof of the  
6 designated beneficiary's death.

7 (b) The retirement allowance payable to the retiree, as of July  
8 1, 1998, or the date of the designated beneficiary's death, whichever  
9 comes last, shall be increased by the percentage derived in (c) of  
10 this subsection.

11 (c) The percentage increase shall be derived by the following:

12 (i) One hundred percent multiplied by the result of (c)(ii) of  
13 this subsection converted to a percent;

14 (ii) Subtract one from the reciprocal of the appropriate joint  
15 and survivor option factor;

16 (iii) The joint and survivor option factor shall be from the  
17 table in effect as of July 1, 1998.

18 (d) The adjustment under (b) of this subsection shall accrue from  
19 the beginning of the month following the date of the designated  
20 beneficiary's death or from July 1, 1998, whichever comes last.

21 (4) No later than July 1, 2001, the department shall adopt rules  
22 that allow a member additional actuarially equivalent survivor  
23 benefit options, and shall include, but are not limited to:

24 (a)(i) A retired member who retired without designating a  
25 survivor beneficiary shall have the opportunity to designate their  
26 spouse or domestic partner from a postretirement marriage or domestic  
27 partnership as a survivor during a one-year period beginning one year  
28 after the date of the postretirement marriage or domestic partnership  
29 provided the retirement allowance payable to the retiree is not  
30 subject to periodic payments pursuant to a property division  
31 obligation as provided for in RCW 41.50.670.

32 (ii) A member who entered into a postretirement marriage or  
33 domestic partnership prior to the effective date of the rules adopted  
34 pursuant to this subsection and satisfies the conditions of (a)(i) of  
35 this subsection shall have one year to designate their spouse or  
36 domestic partner as a survivor beneficiary following the adoption of  
37 the rules.

38 (b) A retired member who elected to receive a reduced retirement  
39 allowance under this section and designated a nonspouse or a person  
40 not their domestic partner as survivor beneficiary shall have the

1 opportunity to remove the survivor designation and have their future  
2 benefit adjusted.

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

6 (5) No later than July 1, 2003, the department shall adopt rules  
7 to permit:

8 (a) A court-approved property settlement incident to a court  
9 decree of dissolution made before retirement to provide that benefits  
10 payable to a member who meets the length of service requirements of  
11 RCW 41.26.530(1) and the member's divorcing spouse or domestic  
12 partner be divided into two separate benefits payable over the life  
13 of each spouse or domestic partner.

14 The member shall have available the benefit options of subsection  
15 (1) of this section upon retirement, and if remarried or in a  
16 domestic partnership at the time of retirement remains subject to the  
17 spousal or domestic partner consent requirements of subsection (2) of  
18 this section. Any reductions of the member's benefit subsequent to  
19 the division into two separate benefits shall be made solely to the  
20 separate benefit of the member.

21 The nonmember ex spouse or former domestic partner shall be  
22 eligible to commence receiving their separate benefit upon reaching  
23 the ages provided in RCW 41.26.430(1) and after filing a written  
24 application with the department.

25 (b) A court-approved property settlement incident to a court  
26 decree of dissolution made after retirement may only divide the  
27 benefit into two separate benefits payable over the life of each  
28 spouse or domestic partner if the nonmember ex spouse or former  
29 domestic partner was selected as a survivor beneficiary at  
30 retirement.

31 The retired member may later choose the survivor benefit options  
32 available in subsection (4) of this section. Any actuarial reductions  
33 subsequent to the division into two separate benefits shall be made  
34 solely to the separate benefit of the member.

35 Both the retired member and the nonmember divorced spouse or  
36 domestic partner shall be eligible to commence receiving their  
37 separate benefits upon filing a copy of the dissolution order with  
38 the department in accordance with RCW 41.50.670.

39 (c) The department may make an additional charge or adjustment if  
40 necessary to ensure that the separate benefits provided under this

1 subsection are actuarially equivalent to the benefits payable prior  
2 to the decree of dissolution.

3 (6) Retirees have up to ninety calendar days after the receipt of  
4 their first retirement allowance to change their survivor election  
5 under subsections (1) and (2) of this section. If a member changes  
6 the member's survivor election under this subsection the change is  
7 effective the first of the following month and is prospective only.

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