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SUBSTITUTE HOUSE BILL 1229

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State of Washington

54th Legislature

1995 Regular Session

By House Committee on Law & Justice (originally sponsored by  
Representatives Sheahan and Appelwick)

Read first time 02/13/95.

1 AN ACT Relating to public employment; amending RCW 2.10.146,  
2 41.26.460, 41.32.530, 41.32.785, 41.40.188, and 41.40.660; and adding  
3 a new section to chapter 41.50 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.50 RCW  
6 to read as follows:

7 (1) The department shall designate an obligee as a survivor  
8 beneficiary of a member under RCW 2.10.146, 41.26.460, 41.32.530,  
9 41.32.785, 41.40.188, or 41.40.660 if the department has been served by  
10 registered or certified mail with a dissolution order as defined in RCW  
11 41.50.500 at least thirty days prior to the member's retirement. The  
12 department's duty to comply with the dissolution order arises only if  
13 the order contains a provision that states in substantially the  
14 following form:

15 When . . . . . (the obligor) applies for retirement the  
16 department shall designate . . . . . (the obligee) as  
17 survivor beneficiary with a . . . . . survivor benefit.

1 The survivor benefit designated in the dissolution order must be  
2 consistent with the survivor benefit options authorized by statute or  
3 administrative rule.

4 (2) The obligee's entitlement to a survivor benefit pursuant to a  
5 dissolution order filed with the department in compliance with  
6 subsection (1) of this section shall cease upon the death of the  
7 obligee.

8 (3)(a) A subsequent dissolution order may order the department to  
9 divide a survivor benefit between a survivor beneficiary and an  
10 alternate payee. In order to divide a survivor benefit between more  
11 than one payee, the dissolution order must:

12 (i) Be ordered by a court of competent jurisdiction following  
13 notice to the survivor beneficiary;

14 (ii) Contain a provision that complies with subsection (1) of this  
15 section designating the survivor beneficiary;

16 (iii) Contain a provision clearly identifying the alternate payee  
17 or payees; and

18 (iv) Specify the proportional division of the benefit between the  
19 survivor beneficiary and the alternate payee or payees.

20 (b) The department will calculate actuarial adjustment for the  
21 court-ordered survivor benefit based upon the life of the survivor  
22 beneficiary.

23 (c) If the survivor beneficiary dies, the department shall  
24 terminate the benefit. If the alternate payee predeceases the survivor  
25 beneficiary, all entitlement of the alternate payee to a benefit ceases  
26 and the entire benefit will revert to the survivor beneficiary.

27 (d) For purposes of this section, "survivor beneficiary" means:

28 (i) The obligee designated in the provision of dissolution filed in  
29 compliance with subsection (1) of this section; or

30 (ii) In the event of more than one dissolution order, the obligee  
31 named in the first decree of dissolution received by the department.

32 (e) For purposes of this section, "alternate payee" means a person,  
33 other than the survivor beneficiary, who is granted a percentage of a  
34 survivor benefit pursuant to a dissolution order.

35 (4) The department shall under no circumstances be held liable for  
36 not designating an obligee as a survivor beneficiary under subsection  
37 (1) of this section if the dissolution order or amendment thereto is  
38 not served on the department by registered or certified mail at least  
39 thirty days prior to the member's retirement.

1 (5) If a dissolution order directing designation of a survivor  
2 beneficiary has been previously filed with the department in compliance  
3 with this section, no additional obligation shall arise on the part of  
4 the department upon filing of a subsequent dissolution order unless the  
5 subsequent dissolution order:

6 (a) Specifically amends or supersedes the dissolution order  
7 already on file with the department; and

8 (b) Is filed with the department by registered or certified mail at  
9 least thirty days prior to the member's retirement.

10 (6) The department shall designate a court-ordered survivor  
11 beneficiary pursuant to a dissolution order filed with the department  
12 before the effective date of this act only if the order:

13 (a) Specifically directs the member or department to make such  
14 selection;

15 (b) Specifies the survivor option to be selected; and

16 (c) The member retires after the effective date of this act.

17 **Sec. 2.** RCW 2.10.146 and 1990 c 249 s 2 are each amended to read  
18 as follows:

19 (1) Upon making application for a service retirement allowance  
20 under RCW 2.10.100 or a disability allowance under RCW 2.10.120, a  
21 judge who is eligible therefor shall make an election as to the manner  
22 in which such service retirement shall be paid from among the following  
23 designated options, calculated so as to be actuarially equivalent to  
24 each other:

25 (a) Standard allowance. A member selecting this option shall  
26 receive a retirement allowance, which shall be computed as provided in  
27 RCW 2.10.110. The retirement allowance shall be payable throughout the  
28 judge's life. However, if the judge dies before the total of the  
29 retirement allowance paid to the judge equals the amount of the judge's  
30 accumulated contributions at the time of retirement, then the balance  
31 shall be paid to such person or persons having an insurable interest in  
32 the judge's life, as the judge has nominated by written designation  
33 duly executed and filed with the department of retirement systems or,  
34 if there is no such designated person or persons still living at the  
35 time of the judge's death, then to the surviving spouse or, if there is  
36 neither such designated person or persons still living at the time of  
37 death nor a surviving spouse, then to the judge's legal representative.

(b) The department shall adopt rules that allow a judge to select a retirement option that pays the judge a reduced retirement allowance and upon death, such portion of the judge's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the judge's life. Such person shall be nominated by the judge by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

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

(b) If a copy of a dissolution order designating a survivor beneficiary under section 1 of this act has been filed with the department at least thirty days prior to a member's retirement:

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

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

**Sec. 3.** RCW 41.26.460 and 1990 c 249 s 3 are each amended to read as follows:

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

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's

1 accumulated contributions at the time of retirement, then the balance  
2 shall be paid to such person or persons having an insurable interest in  
3 the retiree's life as the retiree shall have nominated by written  
4 designation duly executed and filed with the department; or if there be  
5 no such designated person or persons still living at the time of the  
6 retiree's death, then to the surviving spouse; or if there be neither  
7 such designated person or persons still living at the time of death nor  
8 a surviving spouse, then to the retiree's legal representative.

9 (b) The department shall adopt rules that allow a member to select  
10 a retirement option that pays the member a reduced retirement allowance  
11 and upon death, such portion of the member's reduced retirement  
12 allowance as the department by rule designates shall be continued  
13 throughout the life of and paid to a person who has an insurable  
14 interest in the member's life. Such person shall be nominated by the  
15 member by written designation duly executed and filed with the  
16 department at the time of retirement. The options adopted by the  
17 department shall include, but are not limited to, a joint and one  
18 hundred percent survivor option and a joint and fifty percent survivor  
19 option.

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

30 (b) If a copy of a dissolution order designating a survivor  
31 beneficiary under section 1 of this act has been filed with the  
32 department at 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 consent provisions of (a) of this subsection do  
36 not apply.

37 **Sec. 4.** RCW 41.32.530 and 1990 c 249 s 5 are each amended to read  
38 as follows:

(1) Upon an application for retirement for service under RCW 41.32.480 or retirement for disability under RCW 41.32.550, approved by the department, every member shall receive the maximum retirement allowance available to him or her throughout life unless prior to the time the first installment thereof becomes due he or she has elected, by executing the proper application therefor, to receive the actuarial equivalent of his or her retirement allowance in reduced payments throughout his or her life with the following options:

(a) Standard allowance. If he or she dies before he or she has received the present value of his or her accumulated contributions at the time of his or her retirement in annuity payments, the unpaid balance shall be paid to his or her estate or to such person as he or she shall have nominated by written designation executed and filed with the department.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) Such other benefits shall be paid to a member receiving a retirement allowance under RCW 41.32.497 as the member may designate for himself, herself, or others equal to the actuarial value of his or her retirement annuity at the time of his retirement: PROVIDED, That the board of trustees shall limit withdrawals of accumulated contributions to such sums as will not reduce the member's retirement allowance below one hundred and twenty dollars per month.

(d) A member whose retirement allowance is calculated under RCW 41.32.498 may also elect to receive a retirement allowance based on options available under this subsection that includes the benefit provided under RCW 41.32.770. This retirement allowance option shall also be calculated so as to be actuarially equivalent to the maximum retirement allowance and to the options available under this subsection.

1       (2)(a) A member, if married, must provide the written consent of  
2 his or her spouse to the option selected under this section, except as  
3 provided in (b) of this subsection. If a member is married and both  
4 the member and the member's spouse do not give written consent to an  
5 option under this section, the department will pay the member a joint  
6 and fifty percent survivor benefit and record the member's spouse as  
7 the beneficiary. Such benefit shall be calculated to be actuarially  
8 equivalent to the benefit options available under subsection (1) of  
9 this section unless spousal consent is not required as provided in (b)  
10 of this subsection.

11       (b) If a copy of a dissolution order designating a survivor  
12 beneficiary under section 1 of this act has been filed with the  
13 department at least thirty days prior to a member's retirement:

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

16       (ii) The spousal consent provisions of (a) of this subsection do  
17 not apply.

18       **Sec. 5.** RCW 41.32.785 and 1990 c 249 s 6 are each amended to read  
19 as follows:

20       (1) Upon retirement for service as prescribed in RCW 41.32.765 or  
21 retirement for disability under RCW 41.32.790, a member shall elect to  
22 have the retirement allowance paid pursuant to the following options,  
23 calculated so as to be actuarially equivalent to each other.

24       (a) Standard allowance. A member electing this option shall  
25 receive a retirement allowance payable throughout such member's life.  
26 However, if the retiree dies before the total of the retirement  
27 allowance paid to such retiree equals the amount of such retiree's  
28 accumulated contributions at the time of retirement, then the balance  
29 shall be paid to such person or persons having an insurable interest in  
30 the retiree's life as the retiree shall have nominated by written  
31 designation duly executed and filed with the department; or if there be  
32 no such designated person or persons still living at the time of the  
33 retiree's death, then to the surviving spouse; or if there be neither  
34 such designated person or persons still living at the time of death nor  
35 a surviving spouse, then to the retiree's legal representative.

36       (b) The department shall adopt rules that allow a member to select  
37 a retirement option that pays the member a reduced retirement allowance  
38 and upon death, such portion of the member's reduced retirement

1 allowance as the department by rule designates shall be continued  
2 throughout the life of and paid to a person who has an insurable  
3 interest in the member's life. Such person shall be nominated by the  
4 member by written designation duly executed and filed with the  
5 department at the time of retirement. The options adopted by the  
6 department shall include, but are not limited to, a joint and one  
7 hundred percent survivor option and a joint and fifty percent survivor  
8 option.

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

19 (b) If a copy of a dissolution order designating a survivor  
20 beneficiary under section 1 of this act has been filed with the  
21 department at least thirty days prior to a member's retirement:

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

24 (ii) The spousal consent provisions of (a) of this subsection do  
25 not apply.

26 **Sec. 6.** RCW 41.40.188 and 1990 c 249 s 9 are each amended to read  
27 as follows:

28 (1) Upon retirement for service as prescribed in RCW 41.40.180 or  
29 retirement for disability under RCW 41.40.210 or 41.40.230, a member  
30 shall elect to have the retirement allowance paid pursuant to one of  
31 the following options calculated so as to be actuarially equivalent to  
32 each other.

33 (a) Standard allowance. A member electing this option shall  
34 receive a retirement allowance payable throughout such member's life.  
35 However, if the retiree dies before the total of the retirement  
36 allowance paid to such retiree equals the amount of such retiree's  
37 accumulated contributions at the time of retirement, then the balance  
38 shall be paid to such person or persons having an insurable interest in



1 the retiree's life as the retiree shall have nominated by written  
2 designation duly executed and filed with the department; or if there be  
3 no such designated person or persons still living at the time of the  
4 retiree's death, then to the surviving spouse; or if there be neither  
5 such designated person or persons still living at the time of death nor  
6 a surviving spouse, then to the retiree's legal representative.

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

18 (c) A member may elect to include the benefit provided under RCW  
19 41.40.640 along with the retirement options available under this  
20 section. This retirement allowance option shall be calculated so as to  
21 be actuarially equivalent to the options offered under this subsection.

22 (2)(a) A member, if married, must provide the written consent of  
23 his or her spouse to the option selected under this section, except as  
24 provided in (b) of this subsection. If a member is married and both  
25 the member and the member's spouse do not (~~given~~ ~~[give]~~) give written  
26 consent to an option under this section, the department shall pay a  
27 joint and fifty percent survivor benefit calculated to be actuarially  
28 equivalent to the benefit options available under subsection (1) of  
29 this section unless spousal consent is not required as provided in (b)  
30 of this subsection.

31 (b) If a copy of a dissolution order designating a survivor  
32 beneficiary under section 1 of this act has been filed with the  
33 department at least thirty days prior to a member's retirement:

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

36 (ii) The spousal consent provisions of (a) of this subsection do  
37 not apply.

1       **Sec. 7.** RCW 41.40.660 and 1990 c 249 s 10 are each amended to read  
2 as follows:

3       (1) Upon retirement for service as prescribed in RCW 41.40.630 or  
4 retirement for disability under RCW 41.40.670, a member shall elect to  
5 have the retirement allowance paid pursuant to one of the following  
6 options, calculated so as to be actuarially equivalent to each other.

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

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

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

1       (b) If a copy of a dissolution order designating a survivor  
2 beneficiary under section 1 of this act has been filed with the  
3 department at least thirty days prior to a member's retirement:

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

6       (ii) The spousal consent provisions of (a) of this subsection do  
7 not apply.

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