

SECOND SUBSTITUTE HOUSE BILL 1229

State of Washington 54th Legislature 1996 Regular Session

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

Read first time 01/15/96.

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 1995 c 144 s 21 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 the member's estate, or such person or persons, trust,
32 or organization as the judge has nominated by written designation duly
33 executed and filed with the department of retirement systems or, if
34 there is no such designated person or persons still living at the time
35 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.

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

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

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

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

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

28 **Sec. 3.** RCW 41.26.460 and 1995 c 144 s 17 are each amended to read
29 as follows:

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

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

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

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

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

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

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

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

35 **Sec. 4.** RCW 41.32.530 and 1995 c 144 s 12 are each amended to read
36 as follows:

37 (1) Upon an application for retirement for service under RCW
38 41.32.480 or retirement for disability under RCW 41.32.550, approved by

1 the department, every member shall receive the maximum retirement
2 allowance available to him or her throughout life unless prior to the
3 time the first installment thereof becomes due he or she has elected,
4 by executing the proper application therefor, to receive the actuarial
5 equivalent of his or her retirement allowance in reduced payments
6 throughout his or her life with the following options:

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

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

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

31 (d) A member whose retirement allowance is calculated under RCW
32 41.32.498 may also elect to receive a retirement allowance based on
33 options available under this subsection that includes the benefit
34 provided under RCW 41.32.770. This retirement allowance option shall
35 also be calculated so as to be actuarially equivalent to the maximum
36 retirement allowance and to the options available under this
37 subsection.

38 (2)(a) A member, if married, must provide the written consent of
39 his or her spouse to the option selected under this section, except as

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

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

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

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

16 **Sec. 5.** RCW 41.32.785 and 1995 c 144 s 14 are each amended to read
17 as follows:

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

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

34 (b) The department shall adopt rules that allow a member to select
35 a retirement option that pays the member a reduced retirement allowance
36 and upon death, such portion of the member's reduced retirement
37 allowance as the department by rule designates shall be continued
38 throughout the life of and paid to a designated person. Such person

1 shall be nominated by the member by written designation duly executed
2 and filed with the department at the time of retirement. The options
3 adopted by the department shall include, but are not limited to, a
4 joint and one hundred percent survivor option and a joint and fifty
5 percent survivor option.

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

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

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

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

23 **Sec. 6.** RCW 41.40.188 and 1995 c 144 s 1 are each amended to read
24 as follows:

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

30 (a) Standard allowance. A member electing this option shall
31 receive a retirement allowance payable throughout such member's life.
32 However, if the retiree dies before the total of the retirement
33 allowance paid to such retiree equals the amount of such retiree's
34 accumulated contributions at the time of retirement, then the balance
35 shall be paid to the member's estate, or such person or persons, trust,
36 or organization as the retiree shall have nominated by written
37 designation duly executed and filed with the department; or if there be
38 no such designated person or persons still living at the time of the

1 retiree's death, then to the surviving spouse; or if there be neither
2 such designated person or persons still living at the time of death nor
3 a surviving spouse, then to the retiree's legal representative.

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

13 (c) A member may elect to include the benefit provided under RCW
14 41.40.640 along with the retirement options available under this
15 section. This retirement allowance option shall be calculated so as to
16 be actuarially equivalent to the options offered under this subsection.

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

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

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

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

32 **Sec. 7.** RCW 41.40.660 and 1995 c 144 s 6 are each amended to read
33 as follows:

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

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

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

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 give written consent to an
26 option under this section, the department shall pay a joint and fifty
27 percent survivor benefit calculated to be actuarially equivalent to the
28 benefit options available under subsection (1) of this section unless
29 spousal consent is not required as provided in (b) 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.

--- END ---