

HOUSE BILL REPORT

ESB 6380

As Passed House - Amended:

March 8, 2002

Title: An act relating to creating new survivor benefit division options for divorced members of the law enforcement officers' and fire fighters' retirement system, the teachers' retirement system, the school employees' retirement system, the public employees' retirement system, and the Washington state patrol retirement system.

Brief Description: Creating new survivor benefit division options for divorced members of the law enforcement officers' and fire fighters' retirement system, the teachers' retirement system, the school employees' retirement system, the public employees' retirement system, and the Washington state patrol retirement system.

Sponsors: By Senators Winsley, Fraser, Carlson, Spanel, Jacobsen, Regala, Rasmussen, McAuliffe and Kohl-Welles; by request of Joint Committee on Pension Policy.

Brief History:

Committee Activity:

Appropriations: 2/26/02, 3/4/02 [DPA].

Floor Activity:

Passed House - Amended: 3/8/02, 90-6.

Brief Summary of Engrossed Bill (As Amended by House)

- Provides greater flexibility in dividing retirement benefits in the event of a divorce for members of the Public Employees' Retirement System, the School Employees' Retirement System, the Teachers' Retirement System, the Washington State Patrol Retirement System, and the Law Enforcement Officers' and Fire Fighters' Retirement System.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended. Signed by 24 members: Representatives Sommers, Chair; Doumit, 1st Vice Chair; Fromhold, 2nd Vice Chair; Sehlin, Ranking Minority Member; Alexander, Boldt, Buck, Cody, Cox, Dunshee, Grant, Kagi, Kenney, Kessler, Linville, Lisk, Mastin, McIntire, Pearson, Pflug, Ruderman, Schual-Berke, Talcott and Tokuda.

Minority Report: Do not pass. Signed by 1 member: Representative Clements.

Staff: Andrea Hardy (786-7349).

Background:

Joint and survivor benefits provide continuing benefits to a survivor after the death of the member. Before retirement, the pre-selection of a survivor benefit may be the only way the non-member spouse can be protected with a lifetime benefit. After retirement, there is no way to revoke or alter the survivor benefit, even if the member's personal circumstances change because of marriage, divorce, or death of a spouse.

Regarding survivor benefits, there are two types of plans in the state retirement system: (1) plans providing an automatic survivor benefit; and (2) plans offering an optional survivor benefit.

Plans Offering an Automatic Survivor Benefit

The Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 1 (LEOFF 1) and the Washington State Patrol Retirement System (WSPRS) are both automatic plans. This means that spousal survivor benefits are provided as part of the basic pension benefit and require no actuarial reduction of the pension benefit. Assuming a qualifying spouse is present, a joint and survivor benefit for qualified spouses is automatically included in the retirement allowance received by retirees of LEOFF 1 and WSPRS. A qualified spouse for LEOFF 1 is a spouse married to a member one year prior to retirement or at the time of the disability. A qualified spouse for the WSP is a spouse married to the member two years prior to retirement.

Plans Offering an Optional Survivor Benefit

Public Employees' Retirement System, Plans 1 and 2 (PERS 1 and 2), Teachers' Retirement System, Plans 1, 2, and 3 (TRS 1, 2 and 3), and School Employees' Retirement System, Plans 2 and 3 (SERS 2 and 3) are all optional survivor benefit plans. This means that members who elect to have a survivor benefit for a spouse or other designated person must take an actuarial reduction in their pension benefit to do so. The amount of the reduction is based on three factors: (1) The difference in the age of the member and designated survivor; (2) the expected survivor's benefit; and (3) the member's retirement system and plan.

Members of PERS 1 and 2, TRS 1, 2 and 3, SERS 2 and 3, and LEOFF 2 all have the option of including joint and survivor coverage as part of their pension benefit. The monthly pension of a retiree who chooses a survivor benefit is reduced to pay for the survivor benefit. The designation of the retiree's beneficiary, who may be someone other than a spouse, must be made at the time of retirement. The beneficiary designation cannot be modified even if the retiree's personal circumstances change.

Summary of Amended Bill:

For members who divorce in the future, new options for dividing survivor benefits consistent with community property and divorce laws are created.

Plans Offering an Automatic Survivor Benefit

A new option for survivor benefits is created that permits the divorcing spouse at the time of the divorce by way of court decree to claim not only a portion of the member's benefit, but also a portion of any future spouse's survivor benefit. The bill also incorporates the addition of an optional, actuarially reduced spousal survivor benefit during a window opening one year after a post-retirement marriage, similar to the post-retirement marriage option added to the optional plans by the 2000 Legislature.

The amended bill also allows persons who became LEOFF 1 surviving spouses prior to 1977 to remarry without losing their survivor benefits. This is consistent with current practice with regard to persons who became surviving spouses after 1977. The amended bill also provides that split benefits created at the time of a divorce will continue for the life of the non-member ex-spouse, regardless of whether the member is still alive.

Plans Offering an Optional Survivor Benefit

The Department of Retirement Systems must adopt rules by July 1, 2003, to make a new survivor option available at divorce. The new rules must provide for a division of the total benefits of the member and divorcing spouse into two separate, single-life benefits payable for the life of that individual. The creation of the two separate benefits is done.

If the above division occurs before the member retires and the member later remarries, that member will remain subject to the spousal survivor benefit requirements when he or she retires. Subsequent reductions to create new survivor benefits will be made solely to the member's remaining benefit; the separate, single-life benefit created for the non-member spouse in the earlier divorce will not be affected. The divorced spouse of the member will be eligible to begin receiving their survivor benefit when they reach normal retirement age under the plan of their divorced spouse - age 60 in PERS 1, TRS 1, and SERS 1, and age 65 in PERS 2 and 3, TRS 2 and 3, SERS 2 and 3, and LEOFF 2.

If the divorce occurs after the member retires, the separate single-life benefit option described above will only be available to spouses who chose a survivor benefit for the non-member spouse at retirement. In this instance, the non-member spouse will be eligible to begin receiving their benefit immediately. If the retired member elects to later remarry and create a new survivor benefit, the member's single-life benefit will be actuarially reduced, without impact on the ex-spouse's single life benefit.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is fair in that it does not dip into retirement funds. It does have some cost, but this is mostly administrative. Two of the things this bill deals with are death and divorce of a LEOFF 1 member. Right now, a surviving spouse who is receiving a split benefit due to a divorce will have their benefit terminated when their member ex-spouse dies. This bill addresses that issue in that it provides for the continuation of that benefit.

Retiree groups have been pursuing this type of legislation for some time. This bill was recommended by the Joint Committee on Pension Policy, and we support this bill.

Testimony Against: None.

Testified: Senator Winsley, prime sponsor; and Charlie Marsh, State Association of Retired Police Officers.

(Comments) David Pringle, Office of the State Actuary; and Steve Nelson, Department of Retirement Systems.