
SENATE BILL 5281

State of Washington 57th Legislature 2001 Regular Session

By Senators Shin, Costa, Prentice, Rasmussen, Kline and Kohl-Welles

Read first time 01/17/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to rescinding a retirement allowance agreement;
2 amending RCW 41.40.188; and creating a new section.

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

4 **Sec. 1.** RCW 41.40.188 and 2000 c 186 s 7 are each amended to read
5 as follows:

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

11 (a) Standard allowance. A member electing this option shall
12 receive a retirement allowance payable throughout such member's life.
13 However, if the retiree dies before the total of the retirement
14 allowance paid to such retiree equals the amount of such retiree's
15 accumulated contributions at the time of retirement, then the balance
16 shall be paid to the member's estate, or such person or persons, trust,
17 or organization as the retiree shall have nominated by written
18 designation duly executed and filed with the department; or if there be
19 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)(i) The department shall adopt rules that allow a member to
5 select a retirement option that pays the member a reduced retirement
6 allowance and upon death, such portion of the member's reduced
7 retirement allowance as the department by rule designates shall be
8 continued throughout the life of and paid to a person nominated by the
9 member by written designation duly executed and filed with the
10 department at the time of retirement. The options adopted by the
11 department shall include, but are not limited to, a joint and one
12 hundred percent survivor option and a joint and fifty percent survivor
13 option.

14 (ii) Where a restraining order has been issued on behalf of a
15 retiree against the designated beneficiary of the survivor option, as
16 selected by the retiree, and the court finds that the beneficiary has
17 violated that restraining order, the retiree, with permission of the
18 court, may rescind the beneficiary's entitlement to the survivor
19 benefit. The retiree is obligated to forward a certified copy of the
20 court order to the department of retirement systems and the rescission
21 is effective upon receipt. The retiree's benefit will not increase by
22 result of the rescission and the retiree may not select another
23 beneficiary.

24 (c) A member may elect to include the benefit provided under RCW
25 41.40.640 along with the retirement options available under this
26 section. This retirement allowance option shall be calculated so as to
27 be actuarially equivalent to the options offered under this subsection.

28 (2)(a) A member, if married, must provide the written consent of
29 his or her spouse to the option selected under this section, except as
30 provided in (b) of this subsection. If a member is married and both
31 the member and the member's spouse do not give written consent to an
32 option under this section, the department shall pay a joint and fifty
33 percent survivor benefit calculated to be actuarially equivalent to the
34 benefit options available under subsection (1) of this section unless
35 spousal consent is not required as provided in (b) 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)(a) Any member who retired before January 1, 1996, and who
6 elected to receive a reduced retirement allowance under subsection
7 (1)(b) or (2) of this section is entitled to receive a retirement
8 allowance adjusted in accordance with (b) of this subsection, if they
9 meet the following conditions:

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

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

14 (b) The retirement allowance payable to the retiree, as of July 1,
15 1998, or the date of the designated beneficiary's death, whichever
16 comes last, shall be increased by the percentage derived in (c) of this
17 subsection.

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

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

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

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

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

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

31 (a)(i) A retired member who retired without designating a survivor
32 beneficiary shall have the opportunity to designate their spouse from
33 a postretirement marriage as a survivor during a one-year period
34 beginning one year after the date of the postretirement marriage
35 provided the retirement allowance payable to the retiree is not subject
36 to periodic payments pursuant to a property division obligation as
37 provided for in RCW 41.50.670.

38 (ii) A member who entered into a postretirement marriage prior to
39 the effective date of the rules adopted pursuant to this subsection and

1 satisfies the conditions of (a)(i) of this subsection shall have one
2 year to designate their spouse as a survivor beneficiary following the
3 adoption of the rules.

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

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

11 NEW SECTION. **Sec. 2.** Section 1 of this act is applicable to all
12 current and future retirees.

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