

SENATE BILL REPORT

ESHB 1211

AS REPORTED BY COMMITTEE ON WAYS & MEANS, APRIL 4, 1991

Brief Description: Revising retirement benefits.

SPONSORS: House Committee on Judiciary (originally sponsored by Representatives Belcher, Hine, Silver, G. Fisher, Fraser, Winsley, Padden and Phillips).

HOUSE COMMITTEE ON JUDICIARY

HOUSE COMMITTEE ON APPROPRIATIONS

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators McDonald, Chairman; Craswell, Vice Chairman; Bailey, Bauer, Bluechel, Gaspard, Johnson, L. Kreidler, Metcalf, Murray, Newhouse, Niemi, Owen, Rinehart, L. Smith, Talmadge, Williams, and Wojahn.

Staff: Denise Graham (786-7715)

Hearing Dates: April 2, 1991; April 4, 1991

BACKGROUND:

When a married couple gets divorced, vested retirement benefits are divided according to community property rules. Until 1987, the Department of Retirement Systems (DRS) was responsible for dividing the retirement benefits according to a dissolution decree or other court order. DRS was required to make direct payments to a member's ex-spouse according to the property division in the divorce decree.

In addition to community property divisions, the court can order spousal maintenance payments.

In 1987, the Legislature passed a bill that eliminated the ability of DRS to make automatic direct payments of community property divisions to ex-spouses from member's retirement benefits. It created instead a mechanism called a "mandatory benefits assignment order" (MBAO). In cases where members are behind in their court-ordered spousal maintenance payments or their property division obligations, the ex-spouse can obtain from a court an MBAO requiring DRS to make specific payments to the ex-spouse from the member's retirement benefits. The ex-spouse cannot obtain such an order until the member spouse is 15 days delinquent in an amount of \$100 or more. DRS can not withhold more than 50 percent of the member's monthly retirement benefits.

Plan I of PERS, TRS and LEOFF, and Plan II of these systems for members with less than 10 years of service, provide that death benefits go first to a named beneficiary, then to a surviving spouse or minor child, and failing either of those, to the member's legal representatives. Plan II of these retirement systems makes no provisions for the disposition of accumulated contributions if a member with more than 10 years of service is not survived by a spouse or minor child.

SUMMARY:

The Department of Retirement Systems (DRS) is required to make a direct payment, either on a monthly basis or in one lump sum, to an ex-spouse to satisfy a property division obligation. The dissolution order must specifically provide for the direct payment and the amount of the payment. The court may not order DRS to pay more than 75 percent of a member's monthly retirement benefit to an ex-spouse in a property settlement.

The ex-spouse may still obtain a mandatory assignment of benefits order (MBAO) to enforce collection of delinquent spousal maintenance.

DRS must notify ex-spouses who obtained divorce decrees after the 1987 act's effective date but before this bill's effective date, and who are currently receiving property obligation payments under MBAOs, that they may receive direct payment of retirement benefits if their court orders comply or are modified to comply with this act's requirements.

Benefits cease upon the member's death except that if the court order so provides, the ex-spouse may obtain a lump sum death benefit.

DRS may collect up to a \$75 setup fee and may charge \$6 for subsequent disbursements. The member and the ex-spouse will share the fee equally. Money collected will be deposited in DRS's expense fund.

The accumulated contributions of a member with more than 10 years of service in PERS, TRS, or LEOFF Plan II go to the member's named beneficiary or the member's legal representatives if the member is not survived by a spouse or minor child.

Appropriation: \$78,049

Revenue: yes

Fiscal Note: available

SUMMARY OF PROPOSED SENATE AMENDMENT:

The definition of "dissolution order" is changed to include decrees of invalidity.

TESTIMONY FOR:

The bill is the result of three years' work and will fix problems created with the passage of a bill in 1987.

TESTIMONY AGAINST: None

TESTIFIED: Representative Belcher, original sponsor (pro); Paul Neal, Department of Retirement Systems