

SUBSTITUTE HOUSE BILL 2215

State of Washington 53rd Legislature 1994 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Appelwick and Padden)

Read first time 02/04/94.

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 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 thirty
39 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.

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 person who has an insurable
6 interest in the judge's life. Such person shall be nominated by the
7 judge by written designation duly executed and filed with the
8 department at the time of retirement. The options adopted by the
9 department shall include, but are not limited to, a joint and one
10 hundred percent survivor option and a joint and fifty percent survivor
11 option.

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

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

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

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

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

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

35 (a) Standard allowance. A member electing this option shall
36 receive a retirement allowance payable throughout such member's life.
37 However, if the retiree dies before the total of the retirement
38 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 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 (1) Upon an application for retirement for service under RCW
2 41.32.480 or retirement for disability under RCW 41.32.550, approved by
3 the department, every member shall receive the maximum retirement
4 allowance available to him or her throughout life unless prior to the
5 time the first installment thereof becomes due he or she has elected,
6 by executing the proper application therefor, to receive the actuarial
7 equivalent of his or her retirement allowance in reduced payments
8 throughout his or her life with the following options:

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

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

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

33 (d) A member whose retirement allowance is calculated under RCW
34 41.32.498 may also elect to receive a retirement allowance based on
35 options available under this subsection that includes the benefit
36 provided under RCW 41.32.770. This retirement allowance option shall
37 also be calculated so as to be actuarially equivalent to the maximum
38 retirement allowance and to the options available under this
39 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 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 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 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 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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