



H.B. 98

125th General Assembly
(As Introduced)

Rep. Willamowski

BILL SUMMARY

- Makes the following changes concerning division of a retirement benefit paid by the Public Employees Retirement System, School Employees Retirement System, or State Teachers Retirement System:
 - (1) Requires that a portion of a cost-of-living increase be paid to a former spouse receiving a portion of the benefit under a division of property order.
 - (2) Provides for continuation after a retiree's death of payments to a former spouse receiving a portion of the benefit under a division of property order.
 - (3) Permits an optional plan for payment of retirement benefits to provide for payment of portions of the benefit to more than one surviving beneficiary.

CONTENT AND OPERATION

Background

Ohio law provides for the division of marital property on termination of a marriage. Marital property includes retirement benefits, or an interest in retirement benefits, acquired by either or both of the spouses during marriage. Current law governing the state retirement systems deals with payment of a portion of a retirement benefit to a former spouse pursuant to a division of property order issued by a court.¹ A division of property order (or a comparable

¹ *The state retirement systems are the Public Employees Retirement System (PERS), State Teachers Retirement System (STRS), School Employees Retirement System (SERS), Ohio*

order terminating marriage and dividing martial property under the laws of another state) may require a retirement system to make direct payments to a former spouse of a member from either a monthly benefit or lump sum payment being paid to the member.² A monthly payment to a former spouse does not reflect any change in the retiree's benefit due to a cost-of-living increase.

A division of property order remains in effect, and payments under it continue, until the retirement system member dies, the former spouse dies, or the member's benefits are terminated. Thus, the division of property does not include survivorship rights for a former spouse. A retirement system is authorized to honor a division of property order for only one former spouse.

Cost-of-living allowance

(R.C. 145.323, 3105.80, 3307.67, and 3309.374)

Under current law, each of Ohio's state retirement systems provides an annual cost-of-living allowance (COLA) to eligible persons who are receiving an allowance, pension, or benefit from the system. Eligibility for a COLA and the method by which it is calculated differs for each state retirement system, but the percentage used in calculation of each COLA is 3%.

The bill grants a COLA to a former spouse who is receiving payment of a portion of a benefit under a division of property order administered by the Public Employees Retirement System (PERS), School Employees Retirement System (SERS), or State Teachers Retirement System (STRS). A COLA granted while the order is in effect must be apportioned between the former spouse and the member or another beneficiary in the same proportion that the amount being paid the former spouse bears to the amount paid to the member or other beneficiary. If, for example, the former spouse is receiving 40% of the benefit, the former spouse will receive 40% of the COLA.

Police and Fire Pension Fund, and State Highway Patrol Retirement System. The bill deals only with PERS, SERS, and STRS.

² *A spouse who is a party to an action for divorce, legal separation, annulment, or dissolution of marriage and is to receive one or more payments from a retirement benefit or lump sum payment under a division of property order is referred to in current law and the bill as an "alternate payee."*

Survivorship rights

(R.C. 145.46, 3105.80, 3307.60, and 3309.46)

The bill provides for continuation after a member's death of amounts paid to the member's former spouse under a division of property order or comparable order administered by PERS, SERS, or STRS. For this provision to apply, a court order making part of the member's retirement allowance payable to the former spouse must be issued prior to the effective date of the member's retirement.

Optional benefit plans

(R.C. 145.46, 3105.80, 3307.60, and 3309.46)

Current law provides that a PERS, SERS, or STRS retirement allowance may be paid either as a single lifetime benefit or in a lesser amount payable for life and continuing after death to a beneficiary under one of several optional plans.³ The bill creates an additional optional plan under which a portion of the retiree's lesser benefit is paid to each of two or more beneficiaries named at retirement for life, in such portion as specified at retirement.

Current law also provides that, with two exceptions, an application for retirement by a married person is considered an election of a benefit plan that pays one-half of the retiree's actuarially reduced benefit to the retiree's surviving spouse for life as sole beneficiary.⁴ The bill creates a third exception. It provides that a different plan of payment of a retirement benefit will be used if, prior to the effective date of retirement, a court issued an order dividing marital property and requiring a plan of payment that provides for payment of a specified amount to the retiree's former spouse.

³ *The single life annuity is the amount paid if a former member receives payments under a plan that does not include survivor benefits. A plan that includes survivor benefits has lesser payments during the former member's life but continues the same or lower payments to a surviving spouse or beneficiary. Payments are calculated so that a plan that includes survivor benefits (a joint and survivor benefit) is the actuarial equivalent of the single life annuity.*

⁴ *The exceptions are (1) the member's spouse consents in writing to a different plan of payment or (2) the board waives the requirement that the spouse consent to a different plan of payment.*

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-04-03	p. 204

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