



House
Legislative
Analysis
Section

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THE APPARENT PROBLEM:

Under most public retirement plans in Michigan, a member may elect to receive either a) a regular retirement allowance, ending upon the member's death, or b) a reduced retirement allowance, payable throughout the lives of the retiree and his or her retirement allowance beneficiary. Several years ago, it was revealed that in some unfortunate situations the spouses of members who had elected to receive a regular retirement allowance were unaware — until the member died — of the full implications of this choice: that they were no longer entitled to any retirement benefits. In response, both the State Employees and Public School Employees Retirement Systems took precautions to assure that a member's spouse was aware of the selection by requiring the signature of both spouses when a member elected to receive a regular allowance. Not all county retirement systems, however, have these provisions. It has recently come to light that in Wayne County the widow of a member who retired in 1981 discovered upon his death in 1989 that he had elected to receive a regular retirement allowance, and that she would receive no further benefits. (Wayne County now requires spousal consent when a member elects to receive a regular retirement allowance.) It has been proposed that the law governing county pensions be amended to provide a "window" that would permit the Wayne County Employees Retirement System to pay a retirement allowance to this widow.

THE CONTENT OF THE BILL:

The bill would amend Public Act 156 of 1951 to permit a county that provided an optional form of retirement allowance payment to pay a retirement allowance to the surviving spouse of a deceased member of a county retirement plan. Under the bill, the surviving spouse (defined in the bill as the person to whom the deceased retiree was married on the effective date of his or her retirement and on the date of his or her death) could receive an allowance if the member:

- Retired after May 1, 1981, but before November 12, 1985.
- Elected to receive his or her retirement allowance in life payments to the retiree.
- Died after November 1989 but before December 31, 1989.

The provision would require the adoption of a resolution by the county board of commissioners. The board of commissioners would be required to compute the retirement allowance in the same manner as if, on the day before the retiree's death, the deceased retiree had elected to receive a reduced retirement allowance in life payments to the retiree with full continuation to the retirement allowance beneficiary, and had nominated the surviving spouse as the retirement allowance beneficiary.

MCL 46.12a

FISCAL IMPLICATIONS:

According to the Retirement Bureau, House Bill 5533 would not affect state expenditures. (3-19-90)

CO. RETIREES/ALLCE. TO SURVIVING SPOUSE

House Bill 5533 as introduced
First Analysis (3-20-90)

Sponsor: Rep. Joe Young, Sr.
Committee: Senior Citizens and Retirement

ARGUMENTS:

For:

The bill would rectify an unfortunate situation that sometimes occurs when a surviving spouse, either through deception or through ignorance of the law, is denied the pension benefits that he or she had assumed continue. Most courts acknowledge that the retirement allowance of one partner should be considered joint marital property. Most retirement systems have recognized that a retiree should not be able to choose a retirement allowance option that excludes his or her spouse, without the consent of the spouse. Most have amended the rules governing their systems to require that decisions regarding pensions be shared with a spouse. It is only fair that Wayne County should be given the opportunity to correct this oversight in its retirement rules.

For:

The provisions of the bill would only apply to the spouse of a member who retired between May 1, 1981, and November 12, 1985, and who died between November, 1989, and December 31, 1989. The bill would therefore serve only as a response to a particular case, and would not establish a precedent for similar situations.

Response: Even though the provisions of the bill are optional, and would apply only to the spouses of members who not only retired during a specific time period, but who also died during a certain time period, the bill could still set a precedent that could prove to be costly to county retirement systems. Some 30 counties have independent retirement systems, and could conceivably be pressured by members to adopt similar provisions.

Against:

The statutes that govern the various retirement systems specifically provide that the election of a payment option may not be changed on or after the effective date of a retirement allowance, since members who receive a regular retirement allowance receive a substantially higher monthly benefit than they would receive under a reduced retirement allowance. The bill would therefore grant an unfair benefit to one person out of many who might have claimed equal consideration. In addition, many members who elect to receive a regular retirement allowance do so because, as is the case in this situation, they are entitled to health and retirement benefits from another pension or retirement system — benefits that their spouses will continue to receive after their death.

POSITIONS:

The Retirement Bureau is opposed to the bill. (3-15-90)

The Wayne County Employees Retirement System has not yet adopted a position on the bill. (3-16-90)

The Michigan Association of Counties has no position on the bill. (3-19-90)

H.B. 5533 (3-20-90)