



**House
Legislative
Analysis
Section**

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THE APPARENT PROBLEM:

Under the State Employees Retirement Act and the Public School Employees Retirement Act, a member may choose to receive a reduced retirement allowance, with the provision that payment of the benefit, or a percentage of the benefit, continue after his or her death, throughout the lifetime of the person designated as beneficiary. Should the beneficiary die before the retiree, the retiree's benefit reverts to a straight retirement allowance. In cases where the beneficiary and the retiree divorce, however, there is no provision in the act allowing the retiree's benefit to revert to a regular or straight retirement allowance. Even though the employee's retirement benefits may already have been included as an asset in the marital property settlement, or be subject to child support orders, selection of a payment option is irrevocable, and the retiree will receive a reduced allowance.

THE CONTENT OF THE BILLS:

House Bills 4619 and 4620 would amend the State Employees Retirement Act and the Public School Employees Retirement Act, respectively, to specify that the election of a reduced retirement allowance could be considered void upon divorce. Under the bills, the benefit of a retiree receiving a reduced retirement allowance would revert to a regular or straight retirement allowance, including postretirement adjustment, if any, effective the first of the month after the date the retirement system received a certified copy of the judgment of divorce, award or court order. The bills could not be construed to require that retirement assets or allowances be paid or distributed in amounts that would exceed the actuarially determined amounts that would otherwise have become payable if a judgment of divorce had not been rendered, and would still be subject to other court orders pertaining to the member's obligations to a spouse, or child.

Under the bills, the retirement system would consider a member's election to receive a reduced retirement allowance void if a judgment of divorce, award, or court order entered after the effective date of the bills provided that the reduced retirement option be considered void, or an amended judgment of divorce, award, or court order entered after the bills' effective date provided that the reduced retirement option be considered void, and the retirant provided a certified copy of the judgment or amended judgment to the retirement system.

House Bill 4620 would also amend the Public School Employees Retirement Act to emphasize that certain disabled retirees may exercise the same retirement options as other retirees.

MCL 38.31 and 38.1385

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that, except for the administrative costs involved in notifying employees of the changes, the bills would have no fiscal implications for the retirement systems. (4-27-89)

RETIREMENT/DIVORCED SPOUSES & DISABLED

House Bills 4619 and 4620 with committee
amendments
First Analysis (5-2-89)

Sponsor: Rep. Mary Brown
Committee: Senior Citizens & Retirement

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ARGUMENTS:

For:

A retiree who chooses to receive reduced retirement benefits does so to provide security for a spouse after his or her death. It is unfair that divorced retirees should lose part of their retirement benefits due to circumstances that they could not have foreseen, and may not have been able to control.

For:

The bills would provide for a more equitable division of marital assets in a divorce settlement, since the ultimate value of a retirement allowance will depend on whether the retiree receives a reduced or a regular allowance.

Against:

The bills provide for an equitable division of marital assets in an ideal situation where the divorce is either an amicable one, or both spouses have hired competent attorneys to protect their rights. The bills, however, make no provision to protect the rights of parties under circumstances where, for example, the wife has never been employed and has no money to hire an attorney, or in cases where the attorney does not or is not qualified to look out for the client's interests. For these reasons, and through lack of knowledge of their rights, older women in today's society are often cut off from their husbands' pensions and left in poverty after divorce. In the State Employees Retirement System, especially, the majority of its members are male, so the hypothetical situation described could occur.

Against:

The bills are unnecessary, since the Retirement Bureau — upon the advice of the attorney general — has been following the procedures outlined in the bills for two years.

POSITIONS:

The Retirement Coordinating Council for Michigan Public School and State Employees supports the bill. (4-27-89)

The State Employees Retirement Association supports the bill. (5-1-89)

The Michigan Federation of Teachers supports the bill. (4-27-89)

The Retirement Bureau in the Department of Management and Budget has no position on the bill. (4-27-89)

H.B. 4619 & 4620 (5-2-89)