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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 812 (Substitute S-2 as reported)
Sponsor: Senator Gilbert J. DiNello
Committee: Judiciary

Date Completed: 2-21-90

RATIONALE

In recent years, retirement benefits have been considered to be a part of marital property rights for the purposes of divorce settlements, but Michigan law does not specifically allow a former spouse of a State Employees' Retirement System (SERS) or Public School Employees' Retirement System (PSERS) member to receive part or all of the member's benefits. Some people feel that the State Employees' Retirement Act, the Public School Employees Retirement Act, and the divorce Act should allow a former spouse to receive benefits if such an arrangement is specified in a domestic relations order pursuant to a divorce settlement.

CONTENT

The bill would amend the divorce Act to provide that, upon the motion of a party or consent of both parties, a court order pertaining to pension benefits entered before the bill's effective date would have to be amended to comply with the requirements of an "eligible domestic relations order" as defined in the Public School Employees Retirement Act or the State Employees' Retirement Act and to "effectuate the intent of the parties or the ruling of the court".

The bill is tie-barred to House Bill 4855, which would amend the Public School Employees Retirement Act to require compliance with domestic relations orders. (House Bill 5332, to which the Senate bill is not tie-barred, would

amend the State Employees Retirement Act to do the same.)

MCL 552.18

FISCAL IMPACT

There would be no fiscal impact on State or local governments if this bill were enacted in its present form. However, the tie-barred bill (House Bill 4855) would put added administrative responsibility on the Bureau of Retirement in the Department of Management and Budget.

Although House Bill 4855 would not increase the funding requirements of the Public School Employees' Retirement System, it could cost the Bureau of Retirement \$180,000 annually. The Bureau estimates that it would receive about 1,000 domestic relations orders each year. Three new staff positions would be needed and assistance from the Attorney General and the actuary should be anticipated.

ARGUMENTS**Supporting Argument**

Pension benefits have been recognized by the courts as being marital property rights for the purposes of divorce settlements. Although divorce settlements routinely address the distribution of one spouse's retirement benefits between both spouses, the PSERS and the SERS do not recognize a former spouse's claim

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to pension benefits due to the member. While House Bills 4855 and 5332 would specifically authorize the retirement systems to grant such claims if an eligible domestic relations called for benefits to be so distributed, Senate Bill 812 would allow domestic relations orders entered prior to the bill's effective date to be amended to qualify for distribution of benefits to a former spouse pursuant to House Bills 4855 and 5332.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.