



**House
Legislative
Analysis
Section**

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SERA: DIVORCED SPOUSES

House Bill 5741 as introduced
First Analysis (6-9-88)

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AUG 01 1988

Sponsor: Rep. Mary C. Brown

Committee: Senior Citizens and Retirement Law Library

THE APPARENT PROBLEM:

Under the State Employees Retirement Act, a retiree may choose to receive a reduced retirement allowance, with the provision that payment of the benefit continue after the retiree's 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 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 BILL:

The bill would amend the act to specify that the benefit of a retiree receiving a reduced retirement allowance would revert to a straight retirement allowance effective the first of the month after the date of the judgment of divorce if the spouse has been designated as the retiree's retirement allowance beneficiary. The allowance would be subject to a court order to meet the person's obligations to a spouse, former spouse, or child, and could not supercede such an order. Should an order within a judgment of divorce that was dated before the effective date of the bill be amended to reflect the new provisions, then the retirant's retirement allowance would revert to a regular retirement allowance effective the first of the month following the date of the amended judgment of divorce. The bill could not be construed to require that retirement assets or allowances be distributed or paid in amounts which would exceed those amounts that would otherwise have become payable to the member or his or her beneficiary had the divorce not occurred.

MCL 38.1385

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that, except for the administrative costs involved in notifying employees of the changes, the bill would incur no fiscal implications for the state. (6-8-88)

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 which they could not have foreseen, and may not have been able to control.

For:

The bill 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:

Most divorces occur before employees reach retirement age. The bill, therefore is unnecessary. It could, however, open the door to a flood of applications to have retirement options changed retroactively.

POSITIONS:

The Retirement Coordinating Council for Michigan Public School and State Employees supports the bill. (6-8-88)

The State Employees Retirement Association supports the bill. (6-8-88)

H.B. 5741 (6-9-88)