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RETIREMENT; EDRO CHANGES

House Bill 4023
Sponsor: Rep. Nick Ciaramitaro
Committee: Judiciary

Complete to 2-3-97

A SUMMARY OF HOUSE BILL 4023 AS INTRODUCED 108097

The Eligible Domestic Relations Order Act (MCL 38.1702 et al.) provides for payment of retirement benefits to an "alternate payee" (a divorced spouse) of a participant in a public retirement system under certain circumstances. The bill would amend the act in several ways.

• The act provides that an alternate payee is entitled to an actual interest in a share of a benefit that is or will become payable to a member of a public retirement system, if so provided in an eligible domestic relations order (EDRO) filed with the retirement system. The act specifies several payment options, including a single life annuity or a reduced actuarial benefit. The bill would add, as an additional payment option, a lump sum payment from a defined contribution plan.

• Currently, the act requires that an EDRO be filed with the appropriate retirement system before the member's effective date of retirement. Further, generally public retirement systems provide an option, which must be elected at the time of retirement and is generally irrevocable, for a retiree to receive a reduced retirement option with the assurance that the retirement benefit will continue to be paid to the retiree's spouse for the spouse's lifetime if the retiree predeceases his or her spouse. (If the spouse dies first, the "pop-up" clause is triggered; the retirement allowance reverts to the unreduced amount for the remainder of the retiree's lifetime.) The bill would allow EDROs to be filed after retirement, and provide that the reduced retirement allowance option in such a case be considered void and the retirement allowance revert to the regular (unreduced) amount, including postretirement adjustments, if any.

• In addition, the act specifies that if an alternate payee elects to receive his or her interest in the benefit of a participant after the participant's earliest possible retirement date but before the participant's termination of employment, the alternate payee is entitled only to the actuarial equivalent of his or her share of the participant's benefit that would be payable when the participant reaches age 60. The bill would modify this provision by replacing the references to "age 60" with "normal retirement age", which would be defined as the age at which the participant is eligible to retire with full unreduced benefits (and specifically excluding circumstances under which a participant may retire with full unreduced benefits under a special "early out" provision that is offered for a limited time).

• Further, the bill would specify that the retirement system would not pay any costs associated with any actuarial evaluation needed to implement an EDRO under the act, and would require that such an order contain provisions for payment of such costs by the participant, the alternate payee, or both.

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