

DIVISION OF PUBLIC RETIREMENT PLANS AMENDED

By Craig P. Treneff
O.S.B.A. Family Relations Specialist

The 125th General Assembly enacted House Bill 98 which provides for significant changes in the current law for division of public employee retirement benefits. Currently, a division of property order (DOPO) issued by a court may require one of the five state retirement systems¹ to make direct payments to a former spouse of a member, deducted from either a monthly benefit or lump sum payment being paid to a member. A monthly payment to a former spouse does not reflect any change in the retiree's benefit due a cost-of-living (COLA) increase. Furthermore, a DOPO does not include survivor benefits to a former spouse and a retirement system is authorized to honor a DOPO for only one former spouse.

H. B. 98 grants a portion of the COLA to a former spouse who is receiving a portion of a benefit under a DOPO. The bill provides that a COLA granted while the DOPO is in effect must be apportioned between the former spouse and the benefit recipient in the same proportion that the amount being paid the former spouse bears to the amount paid to the benefit recipient. The legislation also creates a multiple beneficiary payment plan option; if payment of a portion of a benefit is made to one or more beneficiaries thereunder, each COLA granted while the plan is in effect must be divided among the designated beneficiaries in accordance with the portion each beneficiary has been allocated.

Current law is that a retirement allowance may be paid as either a single lifetime benefit (single annuity) or in a lesser amount payable for life and continuing after death to a surviving

¹ Public Employees Retirement System, State Teachers Retirement System, School Employees Retirement System, Ohio Police and Fire Pension Fund, and State Highway Patrol Retirement System.

spouse or other beneficiary (joint and survivor benefit). Generally, an application for retirement by a married person is considered to be the election of a survivorship option.² The Act creates an additional exception to the election of options in that a member may receive a retirement allowance other than the default joint and survivor benefit if a court order issued prior to the effective date of the member's retirement requires payment of a specified amount to a former spouse to continue after the member's death. The member may elect a plan of payment that complies with such a court order. Additionally, the retirement systems are required to accept the election only if the member elects a plan in accordance with the order and, if married, designates the current spouse as a beneficiary under the plan unless the spouse consents in writing to not being designated a beneficiary under any payment plan.³

An additional payment plan option is created by the Act under which a portion of the retiree's lesser allowance is paid to the member for life and, after the member's death, some portion of the lesser allowance continues to be paid to two, three, or four surviving beneficiaries named at the time of the member's retirement. The portion of the lesser allowance that continues after the member's death must be allocated among beneficiaries at the time of the member's retirement. If the member elects this plan as required by a DOPO, and compliance therewith requires the allocation of less than 10% of the lesser allowance to the member's former spouse, the member may allocate such a percentage in accordance with the order, in distinction to the current rule prohibiting allocation of less than 10%.

The Act is effective on April 27, 2005, but a delayed effective date section provides that the

² There are two exceptions to this rule: a) if the member's spouse consents to a different manner of payment or b) the board waives the requirement.

³The provision does not apply to the State Highway Patrol Retirement System.

operative provisions take effect eighteen month's after the Act's effective date.