

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

BILL ANALYSIS

Assembly Bill 91 **Assembly Member Dutton (As amended 02/11/03)**

Position: **Support, if amended**

Proponents: **Author**

Opponents: **None known**

SUMMARY

Assembly Bill 91, for purposes of receiving survivor benefits under the Defined Benefit (DB) Program, defines a spouse to include a person who was married for less than 12 months if the member's death was accidental.

RELATED BILLS

AB 106 (Corbett) for purposes of receiving survivor benefits, defines a spouse as a person who was continuously married to the member for the period beginning prior to the injury or onset of the illness that resulted in the member's death.

HISTORY

Chapter 634, Statutes of 1996 (SB 2041--Hughes) for purposes of receiving survivor benefits, defines a spouse as a person who was married to the member for a continuous period beginning at least 12 months prior to the death of the member unless a child is born to the member and his or her spouse within the 12-month period or unless the spouse is carrying the member's unborn child.

Chapter 933, Statutes of 1994 (AB 3171--Napolitano) for purposes of receiving survivor benefits, defines a spouse as a person who was married to the member at least 12 months prior to the death of the member unless a child is born to the union within the 12-month period or the surviving spouse is carrying the member's unborn child.

Chapter 1153, Statutes of 1974 (AB 4083--Bannai) among other things, revises the definition of the term "spouse".

CURRENT PRACTICE

The California State Teachers' Retirement System (CalSTRS) provides ongoing benefits to the surviving spouse of a member of the DB Program when the member dies while working in CalSTRS-covered service. The benefits vary depending on the benefit coverage elected by the member, and in some cases, whether there are dependent children. If the member was under Coverage A (available to people who were DB Program members on or before October 15, 1992, and elected Coverage A), the surviving spouse receives a benefit equal to 40 percent of final compensation, plus 10 percent of final compensation for each dependent child, up to an additional 50 percent. A surviving spouse with no dependent children can receive a return of contributions and interest, or a monthly allowance as if the member had worked until age 60, and then retired. Under Coverage B (available to all other members), the surviving spouse receives a monthly benefit based on an amount equal to 50 percent of what the member would have received if the member retired under Option 3 at the time of the member's death.

In order to be considered a surviving spouse, and for purposes of receiving an ongoing benefit, a person must have been "married to the member for a continuous period beginning at least 12 months prior to the death of the member unless a child is born to the member and his or her spouse within the 12-month period or unless the spouse is carrying the member's unborn child." The mandatory 12-month waiting period was incorporated in current law as a system safeguard to prevent manipulation of the DB program through "death bed" marriages that result in a lifetime monthly family allowance or survivor benefit allowance.

Other state teacher retirement systems currently have no similar law. Minnesota, Colorado and Texas, for example, consider the surviving spouse legally married at the member's death, regardless of that length of marriage, and is therefore entitled to receive full death benefits. The Florida Retirement System entitles the spouse to receive an allowance at age 60 that is based on the member's projected service and projected final compensation. The New York State and Local Retirement systems provide the surviving spouse no automatic rights to receive benefits.

DISCUSSION

Assembly Bill 91 would:

- Extends existing benefits to a surviving spouse who was married to the member for less than 12 months, if the member's death was accidental, and the accident that led to the member's death occurred after the marriage;
- Define "accidental death" as death to a member who received bodily injuries through violent, external, or accidental means;
- Clarifies that the member's death must come as a direct result of the bodily injuries and independent of all other causes, within three months after the day on which the injuries were received;

- Stipulates that the twelve-month duration does not apply if at the time of the marriage the member could not have been expected to live for 12 months, due to a known illness.

The author believes that lifetime benefits should be provided to the surviving spouse of a newly married teacher as they are under other public retirement systems and private insurance programs. AB 91 provides an opportunity for surviving spouses to receive ongoing benefits from the DB Program if the member unexpectedly died during the initial year of marriage while continuing to restrict benefits that would be paid as a result of "death bed" marriages.

In order to determine whether a surviving spouse is eligible for ongoing benefits, the member's physician would be required to provide certification stating that the member did not have a health condition prior to the marriage that would have resulted in his or her death within twelve months of the marriage. This is a current process for cases under Coverage A of the DB Program where a member was continuously incapacitated from the last day on the job through the date of death. In addition, depending upon the accident, previous medical records may be required to verify whether a member had any pre-diagnosed conditions that would have resulted in premature death, however, it is sometimes difficult to determine life expectancy on a retroactive basis after death occurs.

Provisions in the bill requiring the member to die within three month months of the accident do not address cases where members sustaining an accident become comatose or dependant on life support systems and later die more than three months after the date of the accident but less than twelve months after the date of their marriage. Therefore, CalSTRS staff recommends deleting the 3-month period from the bill. In addition, if the intent of the bill is to provide benefits to spouses who survive a member who died unexpectedly, staff recommends the bill be amended to extend the benefits to surviving spouses of members who die of an illness that was diagnosed after the marriage. AB 106 (Corbett) proposes similar changes in the definition of a spouse for purposes of receiving ongoing benefits and also addresses the onset of an illness that results in a member's death.

CalSTRS has not maintained statistical data on previous cases that were denied based on the current twelve- month period. However, CalSTRS staff estimates this bill will affect the families of approximately 18 to 24 members per year. By providing lifetime monthly allowances for these cases, a small amount of additional staff resources will be required as dependent children become adults and surviving spouses receive benefit estimates. In addition, CalSTRS staff will be evaluating whether the lack of a minimum period of marriage had any adverse impact on other pension plans, and will discuss with the author whether additional expansions of this benefit would be appropriate.

FISCAL IMPACT

Program Costs– The System Actuary estimates that the total present value cost of this proposal would be \$11 million. This is based on approximately 18-24 cases per year and an annual increase in teacher's salaries of 4.25 percent per year.

Administrative Costs– None

RECOMMENDATION

Support if amended to remove the three-month duration requirement preceding the accidental death of the member, and to extend the benefit to surviving spouses of members who die from a previously undiagnosed illness. This legislation provides benefits for a surviving spouse who was married to the member for less than 12 months, and the member died due to an accidental death. This definition continues to protect the surviving spouse to receive ongoing benefits from the DB Program while retaining system safeguards preventing "death bed" marriages.

ATTACHMENT INCLUDED