

RCW 41.40.188 Retirement allowance—Options—Retirement allowance adjustment—Court-approved property settlement.

(1) Upon retirement for service as prescribed in RCW 41.40.180 or retirement for disability under RCW 41.40.210 or 41.40.230, a member shall elect to have the retirement allowance paid pursuant to one of the following options calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) A member may elect to include the benefit provided under RCW 41.40.640 along with the retirement options available under this section. This retirement allowance option shall be calculated so as to be actuarially equivalent to the options offered under this subsection.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) (a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1) (b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c) (ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a) (i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a) (i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.40.180(1) and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit

subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.40.180(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The separate single life benefits of the member and the nonmember ex spouse are not (i) subject to the minimum benefit provisions of RCW 41.40.1984, or (ii) the minimum benefit annual increase amount eligibility provisions of RCW 41.40.197(2)(b).

(d) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution. [2019 c 102 s 7; 2002 c 158 s 12; 2000 c 186 s 7; 1998 c 340 s 8; 1996 c 175 s 6; 1995 c 144 s 1; 1990 c 249 s 9.]

Effective date—1998 c 340: See note following RCW 2.10.146.

Findings—1990 c 249: See note following RCW 2.10.146.