

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number: SB 119a**

**50th Legislature, 1st Session, 2011**

**Tracking Number: .183532.2**

**Short Title: Retirement Beneficiary Designation of Spouse**

**Sponsor(s): Senator John M. Sapien and Representative Jim R. Trujillo**

**Analyst: Craig J. Johnson**

**Date: March 7, 2011**

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**AS AMENDED**

**The Senate Finance Committee amendments:**

- **strike the Senate Public Affairs Committee amendment adding language to the title;**
- **strike all references to “spouse” and “remarriage” in the title and in the body of the bill;**
- **add language in the title reflecting that the bill:**
  - **allows a member to designate another beneficiary upon the death of the initial designated beneficiary; and**
  - **amends the Educational Retirement Act to allow a deselection and a designation of another beneficiary under certain circumstances; and**
- **add language to require a retired member to pay \$100 to the retirement board to defray the cost of determining a new pension amount.**

**The Senate Public Affairs Committee amendments:**

- **add language to the title to reflect the option for Educational Retirement Association members to change beneficiaries under certain circumstances; and**
- **add provisions to the *Educational Retirement Act* to allow a retired member with a living designated beneficiary other than the member’s spouse or former spouse to exercise a one-time irrevocable option to deselect the current beneficiary and designate a different beneficiary provided that:**
  - **the member shall not have an option to change from the current form of payment;**
  - **the amount of the annuity shall have the same actuarial present value as the annuity paid prior to the change of beneficiary; and**
  - **the member shall pay \$100 to defray the cost of determining the new annuity amount.**

**Current law<sup>1</sup> allows members of the Public Employees Retirement Association a similar option.**

**Original Bill Summary:**

Effective July 1, 2011, SB 119 amends both the *Public Employees Retirement Act* and the *Educational Retirement Act* to allow a retired member, upon remarriage, to exercise a one-time irrevocable option to designate a new spouse as the survivor beneficiary under certain conditions.

Among its provisions, the bill addresses the circumstance of a retired member who at one time received either Option B<sup>2</sup> or Option C<sup>3</sup> pension payments, but who converted to Option A<sup>4</sup> pension payments because of the death of a spouse who was the designated survivor beneficiary. In this case, the bill allows the member to (1) upon remarriage, designate the new spouse as the survivor beneficiary; and (2) again receive Option B or Option C pension payments if:

- the survivor beneficiary designation is made within six months of the remarriage or by January 1, 2012, if the member remarried prior to July 1, 2011; and
- the retired member pays \$100 to defray the cost of calculating the new pension amount.

SB 119 also requires that:

- the pension benefit under the new selection must have the same actuarial present value as the pension under Option A; and
- the beneficiary designation be subject to any court order as provided in current law governing the division of funds as community property.

**Fiscal Impact:**

SB 119 does not contain an appropriation.

According to the Educational Retirement Board and the Public Employees Retirement Association (PERA) bill analyses, administrative costs to recalculate pension benefits and verify beneficiary designations should be offset by the \$100 fee required in the bill.

**Substantive Issues:**

According to the PERA bill analysis:

- current law does not allow a retiree receiving a pension under Option A to provide a benefit to a subsequent spouse upon remarriage;

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<sup>1</sup> Section 10-11-116 (D) NMSA 1978

<sup>2</sup> Option B provides a reduced monthly pension payment to a retiree that, upon the retiree's death, provides the same monthly pension payment to the beneficiary designated at the time the retiree selected this option.

<sup>3</sup> Option C provides a reduced monthly pension payment to a retiree that, upon the retiree's death, provides one-half of the same monthly pension payment to the beneficiary designated at the time the retiree selected this option.

<sup>4</sup> Option A, the normal form of payment, provides a full monthly pension payment to a retiree for life.

- the normal form of payment, Option A, provides a monthly benefit to the retiree for his or her lifetime. Upon death, all payments stop;
- optional survivor beneficiary forms of payment (Option B and Option C) are available on an actuarial equivalent basis, meaning the monthly benefit payment is reduced depending on the survivor option selected, the retiree's age, and the age of the named beneficiary; and

provisions in current law require that the amount of pension payable under Option B and Option C have the same actuarial present value, computed on the effective date of the pension, as the amount of pension under Option A. In other words, a reduced benefit is paid to the retiree during his or her lifetime, which pays for the cost of the survivor beneficiary amount.

**Related Bills:**

HB 146a *Retirement Beneficiary Designation of Spouse* (Identical)