



S.F. 573
(Eaton)

H.F. 420
(Hilstrom)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Combined Service Annuity plans
Relevant Provisions of Law: Minnesota Statutes, New Section 356.408
General Nature of Proposal: Allows termination of non-spousal survivor designations.
Date of Summary: February 22, 2013

Specific Proposed Changes

- Permits any retiree or disabilitant from a Combined Service Annuity plan to terminate a non-spousal survivor designation and receive benefits based on a single life annuity if the designated survivor agrees and both the retiree or disabilitant and the designated survivor file valid termination statements with the executive director of the applicable plan.

Policy Issues Raised by the Proposed Legislation

1. Prior precedent; analogy to marriage dissolutions.
2. Special versus general legislation.
3. Unclear application; other optional annuity forms.
4. Adequacy of the survivor annuity waiver in the revocation process.
5. Actuarial cost impact to the pension plans.
6. Coverage gap, married couples and most divorce situations.
7. Actuarial condition of the pension plans.
8. Issue of support by the pension plan administrations.
9. Differences in coverage group between similar provisions.
10. Drafting issues.

Potential Amendments

S0573-1A, a delete-all technical amendment, adds an effective date; clarifies language, including specifying that the provision applies to joint-and-survivor annuities; clarifies the annuity value; and specifies that the revised annuity is prospective. Given the general similarity of the proposed provision to the marriage dissolution provision (Minn. Stat. Sec. 356.48), which applied only in joint-and-survivor situations, Commission staff presumes the current bill is also intended to be applicable only in joint-and-survivor applications. If this is not the case, a verbal amendment will be needed to this delete-all amendment.

S0573-2A, drawn to delete-all amendment S0573-1A, is at least somewhat substantive. It requires that the survivor designation revocation form or forms must be notarized, requires that the pension plan administrations must offer to counsel the individuals on the implications of the revocation before accepting the form(s), and adds a statement that no survivor designation may be added at a later date.

S0573-3A, which can be used with or without amendment S0573-2A, adds the two first class city teacher retirement fund associations to the list of plans included under the marriage dissolution provision.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director EB
RE: S.F. 573 (Eaton); H.F. 420 (Hilstrom): Combined Service Annuity Plans;
Allowing Termination of Non-Spousal Survivor Designations
DATE: February 22, 2013

General Summary of S.F. 573 (Eaton); H.F. 420 (Hilstrom)

S.F. 573 (Eaton); H.F. 420 (Hilstrom) proposes coding as a new section in the Retirement Systems, Generally, Chapter (Minnesota Statutes, Chapter 356, permitting any retiree or disabilitant from a combined service annuity plan to terminate the survivor designation, if the designated survivor agrees. Upon the retiree or disabilitant, and the designated survivor, filing valid termination statements with the executive director of the applicable plan, the retiree or disabilitant must receive benefits based on a single life annuity. The provision does not apply to a spouse or former spouse.

Background Information on Relevant Topics

The following attachments provide background information on topics relevant to the proposed legislation:

- **Attachment A:** Optional Annuity Forms.
- **Attachment B:** Joint-and-Survivor Annuities.
- **Attachment C:** Joint-and-Survivor Annuity Bouncebacks upon Marriage Dissolution.

Discussion and Analysis

S.F. 573 (Eaton); H.F. 420 (Hilstrom) raises several pension and related public policy issues for consideration by and possible discussion by the Commission, as follows:

1. Prior Precedent; Analogy to Marriage Dissolutions. The policy issue is the extent of any past legislative precedent for the draft proposed legislation and whether or not the situation is sufficiently analogous to a marriage dissolution. The 2010 Legislature (Laws 2010, Ch. 359, Art. 10, Sec. 1, coded as Minn. Stat. Sec. 356.48), passed a provision applicable to plans in the Minnesota State Retirement System (MSRS), Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA), permitting retirees and disabilitants to revoke joint-and-survivor coverage if a court orders through a marriage dissolution decree or annulment decree that the optional annuity designation must be revoked, because no other division of marital property is practical. The current bill has a different focus and is less restrictive. The current bill deals with joint-and-survivor situations not involving a spouse or former spouse, does not require any attempt to provide compensating assets instead of removing the survivor designation, and requires no court action.

Before the 2010 general legislation that permitted joint-and survivor revocations in divorce situations under very limited circumstances, there were two special laws enacted which permitted couples to revoke an optional annuity election due to marriage dissolution decrees, in 1987 (Laws 1987, Ch. 157, Sec. 20) and in 1994 (Laws 1994, Ch. 526). The 1987 legislation does not appear to have been reviewed by the Commission. The 1994 special law was for a retired St. Paul water utility worker whose marriage dissolution decree voided the second-half optional annuity survivor coverage for the ex-spouse. The Commission did consider that bill at its March 21, 1994, meeting, in the form of 1994 S.F. 2250 (Metzen); H.F. 2551 (Pugh). The file suggests that the Commission had little time to review the proposal due to a lengthy agenda and, due to time constraints, staff was unable to provide a staff memo on the bill or to prepare typed amendments. With little debate, the Commission recommended the bill to pass with a handwritten amendment to better identify the eligible individual and to better specify the factual circumstance.

2. Special Versus General Legislation. Given various concerns raised by the bill, an issue is whether there is sufficient need for general legislation. It is possible that the bill request is motivated by a specific situation, possibly a domestic partner situation, which, because of unusual and limited circumstances, might be better explored as a special law request.
3. Unclear Application. The bill never clearly states whether it is to apply in only joint-and-survivor annuity situations, or possibly other forms of optional annuities, such as a term-certain annuity.

4. Adequacy of the Survivor Annuity Waiver in the Revocation Process. The policy issue is whether the process for waiving the survivor designation is adequate. As drafted both the annuitant and designated survivor must file a form or forms, without further specification. Perhaps the bill should be amended to require the forms to be notarized. In similar circumstances a notarized statement is required. Minnesota Statutes, Section 356.46, requires any retiring member of a defined benefit Minnesota public plan to select a joint-and-survivor annuity, unless the spouse waives that coverage by a notarized statement. It might also be appropriate to require that counseling be offered by the pension plan administration to ensure that the individuals clearly understand the implications of signing the waiver; which may avoid later legislative requests to reestablish the survivor coverage, because the person who waived the survivor designation is left in financial hardship following the death of the annuitant and then claims that he or she did not understand the implications of the waiver.
5. Actuarial Cost Impact to the Pension Plans. There will be some added cost to the pension plans under the proposal. Under current law, when a retiree or disabilitant takes a joint-and-survivor annuity, he or she must take a monthly benefit that is reduced compared to the benefit that would be paid if the annuity covered only the retiree or disabilitant. This reduction covers the expected payout to the designated survivor following the death of the primary annuitant. However, under what is called the "bounce-back" provision, if the individual named to the second-half of the joint and-survivor annuity dies before the retiree, the monthly payments under the annuity increases (bounces-back) to the single life annuity level. Under the current bill, death of the second person is not required in order for the annuity to bounce back. All that is required is that the individuals file a form waiving the joint-and-survivor annuity form. Thus, bounce-backs will occur in more situations than under current law and they will occur earlier. The pension plans will be paying higher monthly benefits because of the change, adding a cost to the pension plans.
6. Coverage Gap, Married Couples and Most Divorce Situations. Given the coverage groups in the existing law, Minnesota Statutes, Section 356.48, and the proposed law, some gaps occur. The existing law covers only divorce or annulment situations in the limited situation where a divorce or annulment decree requires waiver of a joint-and-survivor coverage, because no other suitable division of marital property is practice. The current bill states that the bill does not apply to a spouse or former spouse. Assuming the proposed legislation passes, a gap would remain. Most divorced couples and no married couple with a joint-and-survivor annuity can remove that coverage. Assuming the bill has sufficient merit to pass, the Commission may wish to decide if having this gap is appropriate.
7. Actuarial Condition of the Pension Plans. The issue is the actuarial condition of the pension plans and their ability to absorb any added costs given their present condition. An actuarial presentation for all the plans is included in Commission member's packets.
8. Issue of Support by Pension Plan Administrations. The issue is whether the proposed legislation has the support of pension plan administrators and boards.
9. Differences in Coverage Group Between Similar Provisions. As drafted, the provision will apply to all combined service annuity plans, which includes the first class city teacher plans. For reasons that are not clear, the first class city teacher plans are not included under the somewhat similar Minnesota Statutes, Section 356.48, Revocation of Optional Annuity Due to Marriage Dissolutions.
10. Drafting Issues. The bill does not include an effective date; the wording used to refer to plan retirees is in conflict with that used by some plans (and on line 1.9 retirees are referred to as "plan members"); the bill wording is not restricted to joint-and-survivor annuity options; the value of the revised annuity is not specified; and it is not clear that the adjusted monthly benefits are to be prospective only.

Potential Amendments for Commission Consideration

- **Amendment S573-1A** is a delete-all technical amendment to address the drafting issues mentioned above. The amendment adds an effective date; clarifies language, including specifying that the provision applies to joint-and-survivor annuities; clarifies the annuity value; and specifies that the revised annuity is prospective. Given the general similarity of the proposed provision to the marriage dissolution provision (Minn. Stat. Sec. 356.48), which applied only in joint-and-survivor situations, Commission staff presumes the current bill is also intended to be applicable only in joint-and-survivor applications. If this is not the case, a verbal amendment will be needed to this delete-all amendment.
- **Amendment S573-2A**, drawn to amendment S573-1A, is at least somewhat substantive. It requires that the survivor designation revocation form or forms must be notarized, requires that the pension plan administrations must offer to counsel the individuals on the implications of the revocation before accepting the form(s), and adds a statement that no survivor designation may be added at a later date.
- **Amendment S573-3A**, which can be used with or without amendment S573-2A, adds the two first class city teacher plans to the list of plans included under the marriage dissolution provision.

Background Information on Optional Annuity Forms

Most statewide and major local Minnesota public pension plans provide a retirement annuity in the form of a single-life annuity. This means that the retirement annuity is payable solely for the duration of the retired lifetime of the annuitant. To accommodate the needs and desires of annuitants, most major and statewide Minnesota public pension plans have established optional annuity forms.

An optional annuity form allows the annuitant to potentially extend the time period over which an annuity will be paid and to potentially include other recipients. The recipients must be natural persons, rather than legal persons (trusts or corporations), so that there is an actual lifetime over which the value can be predicted. The optional annuity form is typically provided on an actuarial equivalent basis, so the longer period of potential payment or the inclusion of additional recipients is accounted for by a reduced annuity amount. The most typical optional annuity forms are joint-and-survivor optional annuities or term-certain optional annuities. A joint-and-survivor optional annuity pays a reduced annuity amount to the annuitant, but upon the death of the primary annuitant, all or a portion of the prior monthly benefit continues to be paid for the remaining life of the designated survivor. Joint-and-survivor annuities are often elected by married couples to ensure continued income for the surviving spouse. The amount of the reduction is a function of the actuarial life expectancy of the annuitant, the actuarial life expectancy of the potential survivor, and the extent of increased benefit payment duration caused by the differences in the ages. A term-certain optional annuity pays a reduced annuity amount to the annuitant, and if the annuitant dies before a designated period of time of receipt has elapsed, an equal annuity amount to the annuitant's survivors or estate for the remaining un-elapsed period of time. The amount of the reduction is a function of the actuarial life expectancy of the annuitant and the length of the period of guaranteed annuity payments. An accelerated annuity (or Social Security leveling optional annuity) provides a benefit in a greater amount during the initial years of retirement, followed by a lower benefit amount for the remainder of the retired lifetime, typically intended to assist public employees who retire at ages earlier than when Social Security benefits are payable (earliest is age 62) or when full Social Security benefits are payable (age 65 if born earlier than 1938, increasing to age 67 if born later than 1959).

Optional annuity forms are likely elected by retirees or disabilitants for a number of potential motivations. The clearest motivation is a concern about the financial situation of a potential survivor (spouse, child, or other survivor) that underlies the selection of joint-and-survivor optional annuity forms. The motivation for the pre-age 62 accelerated optional annuity form is presumed to be an equalization of total benefit payouts to account for the delay in eligibility for Social Security benefits until age 62. The motivation for selecting term certain optional annuity forms is unclear. Because of its time limitations, the term certain optional annuity forms are not generally considered to be survivor benefits, although some term certain optional annuity forms may be utilized for specialized survivor coverage concerns.

The bounceback in a joint-and-survivor annuity means that the annuity amount returns from the joint-and-survivor actuarially reduced amount back to the single-life annuity amount if the intended survivor predeceases the annuitant. The bounceback is subsidized because no additional actuarial reduction in the retiree's retirement annuity amount is required for the feature beyond the joint-and-survivor optional annuity form actuarial equivalence reduction. The bounceback feature has not been included as part of term-certain or other optional annuity forms.

Under Minnesota Statutes, Section 356.46, enacted in 1981, reenacted in 2002, and substantively amended in 2008, there is a procedure that must be followed in electing an optional retirement annuity. Public pension plans are required to provide the retiree and the retiree's spouse before retirement with a summary of all optional retirement annuity forms with the retirement application, a calculation of the benefit reduction required to take each option, and the procedure to be used to gain more information on optional forms. Under Minnesota Statutes, Section 356.46, for public pension plan members who are married at the time of retirement, a 50% joint-and-survivor optional annuity is payable instead of a single-life annuity unless some other option is elected or unless the spouse of the retiree waives the survivorship coverage.

Since optional annuity forms are established to be the actuarial equivalent of a single-life annuity at the time of retirement, any reopening of an optional election form will threaten to disrupt the actuarial situation under which the option was calculated. Also, since the optional annuity form election frequently establishes rights to a potential eventual retirement benefit in other people, any reopening of or any modifications in the optional annuity form will affect their rights and, consequently, would be inappropriate.

Background Information on Joint-and-Survivor Annuities

A joint-and-survivor annuity is an annuity form which provides coverage to another individual, in addition to the retired or disabled employee. The other individual is often a spouse, but it could also be another adult or a child, unless specifically restricted under the laws or bylaws governing a particular plan. The intent is to provide continuing income to the other individual for life, following the death of the primary annuitant.

In recent decades, it has become increasingly common for families to have more than one wage earner. Currently, in a majority of cases both partners in a marriage or other committed relationship are employed. Given this situation, the couple seems more able to save toward retirement by accumulating assets other than the plan retirement annuity, and both individuals may have earned a pension due to their own employment. The couple may not want or need surviving spouse coverage. This possibility is reflected in most of our more modern Minnesota public pension plans. Automatic coverage is not provided and joint-and-survivor surviving spouse coverage, if desired, can be elected. The election is left to the employee. If joint-and-survivor coverage is appropriate for a given retiree, he or she can elect that coverage.

Some of the older plans, however, did have automatic surviving spouse coverage following the death of the primary annuitant. This may reflect a family norm that is less relevant today than it was decades ago. To the best of Commission staff's knowledge, all Minnesota public plans which provide automatic surviving spouse coverage are closed to new members. This automatic coverage was a common feature in police and paid fire local relief association plans, all of which were closed to new members in 1980. The old Legislator's Retirement Plan and Elected State Officers Retirement Plan, which were closed to new members in 1997, have automatic surviving spouse coverage, equal to 50% of the benefit received by the primary annuitant prior to death.

Except for the exceptions noted later, the total value of a joint-and-survivor annuity (or any other optional annuity form) has the same total expected value as an annuity covering only the life of the retired or disabled employee. For most Minnesota public pension plans, the total value of the retirement benefit is a function of the individual's salary near retirement and total years of service, but not marital status. The retirement and disability benefits offered through the public pension plan are employee benefits, serving to attract, retain, and out-transition the employee at the end of his or her productive working life. Currently, that employee is the decision maker who decides whether to share some of the pension's value with a spouse, other adult, or child, following the death of the primary annuitant.

In general, when a joint-and-survivor annuity is selected, the monthly benefit received by the primary annuitant must be reduced, in order to provide some continuing coverage to the survivor. Otherwise, the total value received would be higher than that received by a comparable single individual, or a comparable married individual who decides not to take a joint-and-survivor annuity. The amount of the reduction is a function of the ages of the annuitant and designated beneficiary. If the retiree is male and the joint-and-survivor annuity provides coverage to a wife who is much younger than the primary annuitant, the amount of the monthly reduction can be quite large, due to the likelihood that the female will outlive the male by many years.

The amount of the reduction also depends upon the extent of the continuing coverage. When plans permit joint-and-survivor annuities, several joint-and-survivor options typically are offered. Under a 100% joint-and-survivor option, following the death of the primary annuitant the designated beneficiary receives the same monthly benefit as before the death occurred. Because of the level of this continuing coverage, a 100% joint-and-survivor annuity requires a larger monthly reduction than options offering lesser continuing coverage. With a 50% joint-and-survivor option, the designated beneficiary would receive a monthly benefit which is half that previously received. Fifty percent, 75%, and 100% joint-and-survivor annuities are the most common joint-and-survivor offerings, but others also exist. For instance, in 2000 the Legislature passed a provision (Laws 2000, Ch. 461, Art. 9, Sec. 4) providing a one-time election of actuarial equivalent 15 or 25% joint-and-survivor coverage for Public Employees Police and Fire Retirement Plan (PERA-P&F) former consolidation account members who were restricted to local plan benefits, to supplement the automatic survivor coverage provided by those plans.

There is a provision in many of the larger Minnesota state retirement plans (Public Employee Retirement Association (PERA), Teachers Retirement Association (TRA), the first class city teacher plans, and most Minnesota State Retirement System (MSRS) plans) which slightly modifies the general actuarial equivalence requirement, due to a bounceback. In 1989, bounceback provisions were added to many joint-and-survivor annuity laws. Under this modification, if the individual to receive the second half of the joint-and-survivor annuity predeceases the primary annuitant, the monthly benefit is restored ("bounces back") to the monthly benefit level that would have been received if the individual had selected a single-life annuity. In the statewide plans, this bounceback feature is provided without any further reduction in the monthly benefits computed when the retirement or disability benefit commences. Therefore, it is a subsidized feature. It raises the overall cost of the pension system and results in a subsidy paid by the employer and all employees who are single, or who are married but who do not elect a joint-and-survivor annuity.

In 1997, laws were enacted which extended joint-and-survivor annuity forms, both those with a bounceback and those without, to the Minneapolis Police Relief Association plan and to the Minneapolis Fire Relief Association plan. The language in the 1997 laws for these two relief associations, however, required full actuarial equivalence, whether or not the bounceback is elected.

Background Information on Joint-and-Survivor Annuity Bouncebacks upon Marriage Dissolution

In 2010 (Laws 2010, Ch. 359, Art. 10, Sec. 1), authority for the revocation of an optional annuity form upon a marriage dissolution or an annulment was enacted.

The provision, applicable to all retirement plans administered by the Minnesota State Retirement System (MSRS) other than the Legislators Retirement Plan and the Elective State Officers Plan, all plans administered by the Public Employees Retirement Association (PERA) other than the Public Employees Defined Contribution Plan, and the Teachers Retirement Association (TRA), specifies that an optional annuity providing coverage to a divorced spouse is revoked if that treatment is specified in a marriage dissolution decree, causing the annuity to bounceback to the full single-life annuity level, as though the person who had been named to the second half of the optional annuity had died on the date a certified copy of the marriage dissolution decree is file with the plan administration. The plan member is not permitted to name another optional annuity beneficiary. The provision applied retroactively.

Before 2010, the Legislature dealt with the topic only on two occasions. A review of past legislation found only two cases that have passed, both of which dealt with PERA-General retirees. In the first case, language was added on the House or Senate floor providing treatment that was not approved by the Commission. This occurred in 1987, when language was added permitting a retired PERA member, born in 1921, and who elected a joint-and-survivor annuity and was later divorced, to revert to a single-life annuity. Review of 1987 Commission agendas provides no evidence that the Commission heard this proposal. Perhaps it was discussed in the form of an amendment to another bill, but there is no indication that the Commission recommended the provision to pass. The second bill passed in 1994. This provision was for a retired St. Paul water utility worker whose marriage dissolution decree voided the second-half optional annuity survivor coverage for the ex-spouse. The Commission did consider this at its March 21, 1994, meeting, in the form of S.F. 2250 (Metzen); H.F. 2551 (Pugh). The file suggests that the Commission had little time to review this proposal due to a lengthy agenda and there was minimal staff input. Due to time constraints, staff was unable to provide a staff memo on the bill or to prepare typed amendments. With little debate, the Commission recommended the bill to pass with a handwritten amendment to better identify the eligible individual and to better specify the factual circumstance.

In 2004, H.F. 1770 (Strachan) was introduced, but the Commission did not hear the bill and it did not pass. The bill would have covered most Minnesota public pension plans and would have permitted the annuity to bounce back to a single-life level if a divorce decree declared that the second half of the joint-and-survivor annuity must not be paid.

In considering the provision in 2010, the Commission assessed the issues of the need for the change in the light of a self-help remedy of revising the dissolution settlement, the possible windfall that could accrue to one dissolution part if the property settlement was fashioned under the pre-2010 law, the actuarial cost of the change, the potential for future requests for expansions to non-dissolution circumstances, and the impact of a retroactive application to pre-2010 marriage dissolutions.

With respect to the self-help issue, the situation of a legally incorrect marital property division order could be resolved by reopening the divorce settlement agreement or by seeking restitution from the lawyer or lawyers to correct what is most likely the consequence of poor work by divorcing couples, applicable lawyers, and the courts, but the Legislature appears to have decided to have the retirement plans correct the situation.

With respect to the windfall issue, where the individuals who developed the divorce decree may have presumed that there would be no revision in the benefit to the primary annuitant under existing law, the Legislature appears to have concluded that any windfall would be inadvertent.

With respect to the issue of the actuarial cost, the Legislature appears to have relied on the actuarial equivalency computations.

With respect to the potential for future expansions, such as a terminally ill spouse who consents to the waiver without a marriage dissolution, the Legislature appears to have assumed that expansion demands would be few or could be distinguished.

With respect to the retroactivity question, which was decrees issued within two years of the date of enactment, the Legislature decided to cover the individuals who brought the legislative request forward.

2012 Minnesota Statutes

356.46 APPLICATION FOR RETIREMENT ANNUITY; PROCEDURE FOR ELECTING ANNUITY FORM; MANDATORY JOINT AND SURVIVOR OPTIONAL ANNUITY FORM.

Subdivision 1. Definitions. As used in this section, each of the following terms shall have the meaning given.

(a) "Annuity form" means the payment procedure and duration of a retirement annuity or disability benefit available to a member of a public pension plan, based on the period over which a retirement annuity or disability benefit is payable, determined by the number of persons to whom the retirement annuity or disability benefit is payable, and the amount of the retirement annuity or disability benefit which is payable to each person.

(b) "Joint and survivor optional annuity" means an optional annuity form which provides a retirement annuity or disability benefit to a retired member or disabilitant and the spouse of the member or disabilitant on a joint basis during the lifetime of the retired member or disabilitant and all or a portion of the original retirement annuity or disability benefit amount to the surviving spouse in the event of the death of the retired member or disabilitant.

(c) "Optional annuity form" means an annuity form which is elected by a member and is not provided automatically as the standard annuity form of the public pension plan.

(d) "Public pension plan" means a public pension plan as defined under section 356.63, paragraph (b).

(e) "Retirement annuity" means a series of monthly payments to which a former or retired member of a public pension plan is entitled due to attaining a specified age and acquiring credit for a specified period of service, which includes a retirement annuity, retirement allowance, or service pension.

(f) "Disability benefit" means a series of monthly payments to which a former or disabled member of a public pension plan is entitled due to a physical or mental inability to engage in specified employment.

Subd. 2. Provision of information on annuity forms. (a) Every public pension plan which provides for an annuity form other than a single life annuity as an option which can be elected by an active, disabled, or retiring member shall provide as a part of, or accompanying the annuity application form, a written statement summarizing the annuity forms which are available, a general indication of the consequences of selecting one annuity form over another, a calculation of the actuarial value in the amount of the retirement annuity which would be required for each annuity form, and the procedure to be followed to obtain more information from the public pension plan administration concerning all annuity forms provided by the plan. If the public pension plan offers joint and survivor optional annuity forms, the annuity application and accompanying information must include a statement informing the member and the member's spouse that, notwithstanding any law to the contrary, unless the spouse waives any rights to an optional annuity by a notarized statement on the annuity application or other form provided by the pension plan administration, the public pension plan administration shall assume that the member selected the 50 percent joint and survivor optional annuity form.

(b) In lieu of the notarized statement requirement referred to in paragraph (a), the pension plan administration may accept a statement which has been verified, including electronic verification, by administrators of the pension plan.

Subd. 3. Requirement of notice to member's spouse. (a) Every public pension plan administration that provides for a joint and survivor optional retirement or disability annuity potentially applicable to the surviving spouse of a member shall send a copy of the written statement required by subdivision 2 to the spouse of the member before the member's selection of the form of retirement or disability benefit.

(b) Following the selection of a retirement or disability annuity by the member, a copy of the completed annuity application and annuity beneficiary form, if applicable, must be sent by the executive director of the public pension plan to the spouse of the retiring or disabled member. A signed acknowledgment must be required from the spouse confirming receipt of a copy of the completed annuity application and annuity beneficiary form, unless the spouse's signature acknowledging the annuity form selected is on the annuity application or other form as designated by the plan. If the public pension plan administration has not received from the spouse within 30 days a signed acknowledgment, because the annuity application or other form as designated by the public pension plan administration did not include the spouse's signature, the executive director of the public pension plan must notify the member and the member's spouse that the 50 percent joint and survivor annuity form, or a higher joint and survivor form if selected, shall be paid if the spouse does not acknowledge the annuity form selected by the member by responding to the second notice sent to the spouse within 30 days. The second notice must be sent by certified mail with restricted delivery.

(c) If a public pension plan administration receives notice that the provisions of this section have not been complied with, or if a member selects a benefit form without the valid consent of the member's spouse, the executive director of the public pension plan shall suspend the payment of monthly benefits and shall take all actions necessary to comply with this subdivision.

(d) For the Teachers Retirement Association, the statement to the spouse that is required under paragraph (a) must be sent before or upon the member's election of an annuity.

Subd. 4. Plan exclusions. This section does not apply to:

(1) any volunteer fire relief association to which sections 69.771 to 69.776 apply; and

(2) any plan under which the applicable surviving spouse would receive automatic surviving spouse coverage if a joint and survivor annuity were not elected.

Subd. 5. Disabilitant survivor treatment. This section should not be interpreted as prohibiting payment of a survivor annuity to the spouse of a deceased disabilitant, in lieu of any other annuity, if laws specific to the plan provide for a higher surviving spouse annuity.

Subd. 6. Limitations due to marriage dissolution. The requirement to pay a 50 percent joint and survivor annuity is void if there is a court order to the contrary.

Subd. 7. Liability waiver. The pension fund and plan, its employees, and any agent working on behalf of the plan administration are not liable for harm caused by any act of fraud committed by the retiring member or current or previous spouse, or any information withheld from, or incorrect information supplied to the plan administration.

2012 Minnesota Statutes

356.48 REVOCATION OF OPTIONAL ANNUITY DUE TO MARRIAGE DISSOLUTION OR ANNULMENT.

Subdivision 1. Covered plans. This section applies to the following retirement plans:

- (1) the general state employees retirement plan of the Minnesota State Retirement System established under chapter 352;
- (2) the correctional state employees retirement plan of the Minnesota State Retirement System established under chapter 352;
- (3) the State Patrol retirement plan established under chapter 352B;
- (4) the unclassified state employees retirement program of the Minnesota State Retirement System established under chapter 352D;
- (5) the general employee retirement plan of the Public Employees Retirement Association established under chapter 353;
- (6) the public employees police and fire retirement plan established under chapter 353;
- (7) the local government correctional employees retirement plan of the Public Employees Retirement Association established under chapter 353E;
- (8) the Teachers Retirement Association established under chapter 354; and
- (9) the uniform judicial retirement plan established under chapter 490.

Subd. 2. Treatment. (a) The treatment specified in this section applies if, after the accrual date of an annuity or benefit from an applicable plan or plans, a marriage dissolution decree or annulment decree is rendered that specifies that the designation of an optional annuity must be revoked and if the other requirements specified in this section are satisfied.

(b) Notwithstanding any law to the contrary, if the applicable pension plan or plans have provisions of law that revise the monthly benefit amount payable to the primary annuitant upon the death of the individual named as the optional joint annuitant, the monthly benefit amount must be recomputed as though the individual that had been named as the optional joint annuitant died on the date a certified copy of the marriage dissolution or annulment decree is received by the chief administrative officer. Payment of any benefit adjustment under this section is prospective only.

Subd. 3. Restrictions. (a) This section does not apply if the marriage dissolution decree or annulment decree is not consistent with the requirements under section 518.58.

(b) The pension plan benefit recipient must not designate, and the court may not require that the member designate, a subsequent optional annuity beneficiary.

(c) This section does not apply if more than one surviving individual was named as an optional joint annuitant.

Subd. 4. Submission of documentation. To receive the treatment provided in this section, an eligible retiree or disabilitant must provide, to the chief administrative officer of the applicable pension plan, a certified copy of the marriage dissolution or annulment decree. The retiree or disabilitant and the joint annuitant must also submit a form, prescribed by the chief administrative officer of the applicable pension plan and signed by both individuals, requesting the annuity bounce back as provided in subdivision 2. The individuals must also provide any other documentation the chief administrative officer may request.

2012 Minnesota Statutes

518.58 DIVISION OF MARITAL PROPERTY.

Subd. 4. Pension plans. (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

(1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;

(2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;

(3) is not payable in a lump-sum amount from defined benefit pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;

(4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and

(5) in the case of defined benefit public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

(b) The individual retirement account plans established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

(c) If liquid or readily liquidated marital property other than property representing vested pension benefits or rights is available, the court, so far as possible, shall divide the property representing vested pension benefits or rights by the disposition of an equivalent amount of the liquid or readily liquidated property.

(d) If sufficient liquid or readily liquidated marital property other than property representing vested pension benefits or rights is not available, the court may order the revocation of the designation of an optional annuity beneficiary in pension plans specified in section 356.48 or in any other pension plan in which plan-governing law or governing documents allow revocation of an optional annuity in marital dissolution or annulment situations.

Minnesota Session Laws 1987

CHAPTER 157-H.F.No. 940

Sec. 20. [BENEFIT CONVERSION IN CERTAIN CASES.]

Subdivision 1. [ENTITLEMENT.] A retired member of the public employees retirement association, who was born on May 4, 1921, was employed by the city of Edina from September 1, 1965 to March 16, 1984, who elected a joint and survivor annuity pursuant to Minnesota Statutes, section 353.30, subdivision 3, who had their second marriage dissolved on August 20, 1986, shall be entitled to make the election specified in subdivision 2.

Subd. 2. [ELECTION.] A retired member described in subdivision 1 may elect to convert the joint and survivor annuity from the public employees retirement association covering the spouse of the second marriage to a single life annuity. Notice of the election must be filed with the association within 90 days after the effective date of this section. The single life annuity shall be the actuarial equivalent of the joint and survivor annuity payable on the date of the election of the benefit conversion.

Minnesota Session Laws 1994

CHAPTER 526-H.F.No. 2551

Section 1. [CHANGE OF BENEFIT SELECTION.]

Subdivision 1. [APPLICATION.] This section applies to a person:

- (1) who is a retired employee of the St. Paul water utility;
- (2) who was an active member of the public employees retirement association from May 1, 1953 to June 30, 1989;
- (3) whose retirement was effective July 1, 1989;
- (4) whose marriage with the joint annuitant has been dissolved;
- (5) whose marriage dissolution decree provided for a waiver of the optional annuity election; and
- (6) who has submitted, with the joint annuitant, a waiver of the joint and survivor optional annuity form.

Subd. 2. [CHANGE AUTHORIZED.] Notwithstanding Minnesota Statutes, sections 353.29, subdivision 7; and 353.30, subdivisions 3, 3a, and 3c, a person described by subdivision 1 may rescind the selection of a joint and survivor annuity and receive instead a revised retirement annuity upon furnishing to the public employees retirement association a certified copy of a marriage dissolution decree providing for a waiver of a right to the person's retirement benefits by the person's former spouse. The revised retirement annuity may not exceed the actuarial present value of the joint and survivor optional annuity form payable immediately prior to the retirement annuity revision. A revision in benefits under this section is prospective only and does not entitle the person to additional retroactive benefits for the period in which the choice of a joint and survivor annuity was in effect.

1.1 moves to amend S.F. No. 573; H.F. No. 420, as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. [356.408] TERMINATION OF SURVIVOR DESIGNATION.

1.4 Subdivision 1. Authorization to terminate optional annuity form. A public
1.5 pension plan retired member receiving a joint and survivor retirement annuity or a person
1.6 receiving a joint and survivor disability benefit from a plan listed in section 356.30,
1.7 subdivision 3, and the designated survivor of that person may mutually agree to terminate
1.8 the survivor designation by filing a termination statement on a form and in the manner
1.9 specified by the chief administrative officer of the applicable public pension plan. Upon
1.10 filing a valid termination statement accepted by the chief administrative officer, the rights
1.11 of the designated survivor to receive a benefit upon death of the plan retired or disabled
1.12 annuitant are terminated, and the retired or disabled annuitant must receive a normal
1.13 single-life annuity.

1.14 Subd. 2. Revised annuity form. The replacement single life annuity must be
1.15 actuarially equivalent to the joint and survivor annuity as of the first day of the month
1.16 following acceptance of the valid termination statement by the chief administrative officer
1.17 and payment of this revised prospective annuity begins on that same date.

1.18 Subd. 3. Application. This section does not apply if the designated survivor is the
1.19 spouse or former spouse of the plan member.

1.20 EFFECTIVE DATE. This section is effective the day following final enactment."

1.1 moves to amend S.F. No. 573; H.F. No. 420, the delete everything
1.2 amendment (S0573-1A), as follows:

1.3 Page 1, after line 19, insert:

1.4 "Subd. 4. Termination statement form requirements. The annuity form
1.5 termination statements must be in written form and must be notarized. Before accepting
1.6 any signed form or forms, the chief administrative officer of the applicable pension plan
1.7 must offer counseling to the retired or disabled annuitant and the designated survivor
1.8 regarding the implications of the annuity form waiver. The forms must indicate that this
1.9 counseling has been offered and either has been completed or has been waived by the
1.10 retired or disabled annuitant and the designated survivor.

1.11 Subd. 5. Prohibition against further annuity form revisions. No retired or
1.12 disabled annuitant who waives the annuity form under this section may further revise the
1.13 annuity form at any later date."

1.14 Amend the title accordingly

1.1 moves to amend S.F. No. 573; H.F. No. 420, the delete everything
1.2 amendment (S0573-1A), as follows:

1.3 Page 1, after line 20, insert:

1.4 "Sec. 2 Minnesota Statutes 2012, section 356.48, subdivision 1, is amended to read:

1.5 Subdivision 1. **Covered plans.** This section applies to the following retirement plans:

1.6 (1) the general state employees retirement plan of the Minnesota State Retirement
1.7 System established under chapter 352;

1.8 (2) the correctional state employees retirement plan of the Minnesota State
1.9 Retirement System established under chapter 352;

1.10 (3) the State Patrol retirement plan established under chapter 352B;

1.11 (4) the unclassified state employees retirement program of the Minnesota State
1.12 Retirement System established under chapter 352D;

1.13 (5) the general employee retirement plan of the Public Employees Retirement
1.14 Association established under chapter 353;

1.15 (6) the public employees police and fire retirement plan established under chapter 353;

1.16 (7) the local government correctional employees retirement plan of the Public
1.17 Employees Retirement Association established under chapter 353E;

1.18 (8) the Teachers Retirement Association established under chapter 354; ~~and~~

1.19 (9) the Duluth Teachers Retirement Fund Association and the St. Paul Teachers
1.20 Retirement Fund Association established under chapter 354A; and

1.21 ~~(9)~~ (10) the uniform judicial retirement plan established under chapter 490.

1.22 **EFFECTIVE DATE.** This section is effective the day following final enactment."

**SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE**

S.F. No. 573

(SENATE AUTHORS: EATON, Hoffman, Goodwin and Pappas)

DATE	D-PG	OFFICIAL STATUS
02/18/2013	283	Introduction and first reading Referred to State and Local Government

1.1 A bill for an act
 1.2 relating to retirement; allowing termination of certain survivor designations
 1.3 in public pension plans; proposing coding for new law in Minnesota Statutes,
 1.4 chapter 356.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [356.408] TERMINATION OF SURVIVOR DESIGNATION.

1.7 A public pension plan member receiving a retirement annuity or disability benefit
 1.8 from a plan listed in section 356.30, subdivision 3, and the designated survivor of that
 1.9 person may mutually agree to terminate the survivor designation. The plan member and
 1.10 the designated survivor must file a termination statement under this section on a form
 1.11 and in the manner specified by the chief administrative officer of the applicable public
 1.12 pension plan. Upon filing of a termination statement accepted by the chief administrative
 1.13 officer, the rights of the designated survivor to receive a benefit upon death of the plan
 1.14 member are terminated, and the retired employee or disabilitant must receive a normal
 1.15 single-life annuity. This section does not apply if the designated survivor is the spouse or
 1.16 former spouse of the plan member.