

## **NATIONAL GUARD: DEATH BENEFITS FOR SURVIVING SPOUSES**

**House Bill 4335 as enrolled**  
**Public Act 472 of 2000**  
**Second Analysis (1-10-01)**

**Sponsor: Rep. Randy Richardville**  
**House Committee: Veterans Affairs**  
**Senate Committee: Appropriations**

### ***THE APPARENT PROBLEM:***

Members of the national guard receive a federal pension for their service after 20 years' service but are not eligible to receive this federal pension until age 60, which is when the federal government generally requires separation from the military, including the national guard (though this federal pension also is subject to a Social Security offset at age 62). In addition to the federal pension, however, retired national guard members also are eligible at age 55 to receive an annual state retirement payment of \$600 per year (\$50 per month) under the Michigan Military Act if they have completed at least 20 years of active service in the national guard (or defense force, which is what the national guard used to be called) and are separated from the national guard.

The state age eligibility requirements were lowered from age 60 to age 55 in 1980 by Public Act 280, which also added an annual \$300 (\$25 a month) spousal survivor's benefit. In 1996, Public Act 497 of 1996 amended the act's spousal survivor benefit language to delete the reference to national guard members who retired upon reaching the age of 62, and instead provided for an annual \$300 payment to the surviving spouse of a vested former national guard member who retired under one of three circumstances -- if they are honorably discharged from the national guard or if their service in the national guard is terminated because of physical disability or because of federal age or length of service limits -- regardless of the deceased spouse's age at the time of death (that is, even if the spouse had not been at least 55 years old when he or she died).

It was thought that this 1996 amendment would resolve the problem of surviving spouses of deceased qualified national guard members not receiving survivor benefits should the national guard member die in active service before his or her 55th birthday. However, the way the 1996 act was written, in order to be eligible for

survivor benefits, the surviving spouse's deceased qualified spouse still must have been separated from the national guard in order for his or her surviving spouse to receive the annual survivor's payment. Thus, if a national guard member who has at least 20 years active service dies before age 55 and before separating from the national guard, his or her surviving spouse still is not eligible for the surviving spousal benefit payment.

Legislation has been introduced to extend spousal survivor benefits to surviving spouses of National Guard members who die while in active service.

### ***THE CONTENT OF THE BILL:***

Currently, under the Michigan Military Act the surviving spouse of a deceased member of the National Guard or "defense force" receives \$300 a year if the former National Guard or defense force member had completed 20 years of active service at the time of his or her death and met one of three additional criteria: honorable discharge, termination because of disability, or reaching the federal limit for age or length of service.

The bill would amend the act to increase the amount of the annual payment to the surviving spouse from the current \$300 to \$500, and, in addition to the current qualifying circumstances, would add to the list of those surviving spouses entitled to this annual \$500 payment the surviving spouses of National Guard or defense force members who died while on active duty.

MCL 32.811

### ***BACKGROUND INFORMATION:***

Surviving spouses. According to the House Fiscal Agency (as cited in the House Legislative Analysis

Section analysis of Public Act 497 of 1996), in 1996 there were only five surviving spouses of national guard members who met the three criteria and who, therefore, were eligible for the \$300 annual payment. The Department of Military Affairs at that time also estimated that, on average, one additional beneficiary would be added to the military retirement system per year as a result of the 1996 amendment.

Age thresholds. According to a spokesperson in the office of the director of the Department of Military and Veterans Affairs, the age threshold for national guard retirement benefits has been successively lowered over the years from age 62, to age 60, and then to the current age 55 under certain circumstances. (11-18-99)

House amendments. The House amended the Senate-passed version of the bill to increase the payments – both to former National Guard members and to their surviving spouses – to \$1,200, instead of the earlier proposed increase to \$500 (from the current annual \$300 payment). The House also amended the bill to make these payments on a monthly, rather than annual, basis. These amendments were removed in conference committee.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency reports that, according to the Department of Military and Veterans Affairs, as of November 1, 1999, there were 212 spouses of deceased national guard retirees who were eligible to receive the annual payment. Based on this number and an increase of \$200 in the payment to each spouse, the HFA says that the bill would increase state costs by \$42,400 annually. State costs could also increase due to the addition of active duty death as a provision of eligibility for spouses of deceased National Guard retirees. However, this change is expected to affect a relatively small number of people. (1-10-01)

### ***ARGUMENTS:***

#### ***For:***

Legislation enacted in 1996 to amend the Michigan Military Act reportedly was intended to correct a perceived inequity in the payment of national guard state retirement benefits, so that surviving spouses of national guard members who died before age 55 would be eligible to receive survivor benefits.

However, the bill left intact language requiring that the deceased national guard member not only have at least 20 years' active service, but also that the deceased

national guard member have been separated from the national guard in order for his or her surviving spouse to receive state survivor benefits. This clearly is unfair to the spouse of an active member of the guard who dies while still in service after serving at least 20 years. An estimated 10 or 12 surviving spouses currently find themselves in this position. The bill would correct this unintended inequity.

#### ***For:***

The bill would increase the payment to qualified surviving spouses of national guard members from the current \$300 per year (\$25 per month) to \$500 per year. According to the House Fiscal Agency, there would be only about 212 surviving spouses to whom this increase would apply, and while the increased cost to the state would be a pittance, an added \$200 a year in income for these surviving spouses could have an enormous beneficial impact.

#### ***Response:***

Some people believe that the increase is too small, and that instead of increasing the annual survivor's payment by only \$200, the bill should increase the annual payment to, for example, \$1,200. Alternatively, some people believe that the annual payment should be changed to a monthly payment. The numbers of people involved are extremely small and would not cost the state much additional money, and in order to really help the small number of people involved, an additional increase of a mere \$200 hardly seems adequate.

#### ***Against:***

The bill does not go far enough. It should also be made retroactive for those few widows (reportedly numbering only between 10 and 12) that currently cannot receive survivor's benefits because their husbands died before age 55 while still in service in the national guard. While the annual \$300 payment (which the bill would raise to \$500) may seem only token, for many surviving spouses it can contribute significantly to their ability to buy much-needed prescription drugs or to pay monthly telephone bills, or to supplement sometimes meager grocery budgets. Making the bill retroactive would not cost the state much, but could make an enormous difference in the lives of a few highly deserving people.

#### ***Against:***

The bill would allow mention of retirement at age 62 to remain in law, even though the federal government requires termination of most military service (high ranking officers are one of the exceptions) at age 60, at which point federal retirement benefits can begin. Similarly, on the state level, retirement benefits can

begin at age 55 (under specified circumstances, one of which includes at least 20 years' active service.) Shouldn't the truly relevant qualifier for state retirement benefits be length of service, and not the seemingly irrelevant threshold of age 62?

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#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.