

# Legislative Analysis



## DIVORCE PROCEEDINGS: MODIFY SPLIT OF PENSIONS

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**House Bill 5198 (Substitute H-1)**

**Sponsor: Rep. Tonya Schuitmaker**

**Committee: Judiciary**

**Complete to 12-12-05**

### A SUMMARY OF HOUSE BILL 5198 AS REPORTED FROM COMMITTEE 12-7-05

Currently, the state's divorce law (Chapter 84 of the Revised Statutes of 1846) considers vested rights to or in a pension, annuity, or retirement benefits payable to a party on account of service credit to be part of the marital estate and subject to award by the court in a divorce proceeding. Rights or contingent rights to and in an unvested pension, annuity, or retirement benefits may be considered part of the marital estate and could be subject to award by the court.

House Bill 5198 would amend Public Act 259 of 1909 (MCL 552.101), which pertains to judgments of divorce and judgments of separate maintenance, to clarify that each judgment of divorce or judgment of separation would have to determine all rights, including any contingent rights, of the parties regarding any vested pension, annuity, or retirement benefits; any accumulated contributions in any pension, annuity, or retirement system; and, in accordance with Section 18 of Chapter 84 of the Revised Statutes of 1846, any unvested pension, annuity, or retirement benefits. (The changes in language proposed by the bill are underlined.)

Further, the bill would specify that if a judgment of divorce or judgment of separate maintenance provided for the assignment of any rights in and to any pension, annuity, or retirement benefits, a proportionate share of all components of the annuity, pension, or retirement benefits would have to be included in the assignment unless specifically excluded in the judgment of divorce or judgment of separate maintenance. "Components" would include, but not be limited to, supplements, subsidies, early retirement benefits, post-retirement benefit increases, surviving spouse benefits, and death benefits.

The above would apply regardless of the characterization of the pension, annuity, or retirement benefit as regular, early, or disability retirement; death benefit; or any other characterization or classification unless specifically excluded in the judgment of divorce or separation of maintenance.

### FISCAL IMPACT:

The bill has no fiscal implications.

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