

Legislative Analysis



MODIFY DEFINITION OF EDRO (ELIGIBLE DOMESTIC RELATIONS ORDER)

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House Bill 4054
Sponsor: Rep. Kurt Heise
Committee: Judiciary

Complete to 2-6-13

A SUMMARY OF HOUSE BILL 4054 AS INTRODUCED 1-22-13

The bill would amend one of the requirements in the definition of "eligible domestic relations order" (or EDRO) in the Eligible Domestic Relations Act; this definition pertains to pension rights in public retirement systems during divorce proceedings. The bill would provide for a 60-day period during which a domestic relations order that did not qualify as an eligible domestic relations order (EDRO) could be corrected.

The act requires a domestic relations order to be filed with a state or local public retirement system when a member of the system divorces and the parties agree that the member's pension will be divided. The order, which provides direction as to how the pension is to be divided, must meet the requirements of the act. After receiving the order, the retirement system must determine whether it qualifies as an EDRO.

One of those requirements currently is that the domestic relations order must be filed before the effective date of the participant's retirement allowance. If a public retirement system determines that a domestic relations order is not an EDRO (because one or more of the required elements to be an eligible EDRO is not met), the retirement system must promptly notify the participant and the alternate payee of that determination and the reasons why it is not an EDRO. The participant, alternate payee, or court may file an amended domestic relations order with the retirement system. However, by the time the amended domestic relations order is filed, the participant's retirement allowance effective date may have passed.

House Bill 4054 would specify instead that *if* the domestic relations order were submitted to the retirement system for review before the participant's retirement allowance effective date, *but* the retirement system determined the order failed to qualify as an EDRO, there would be a 60-day period from the date that the retirement system notified the parties during which the participant's retirement allowance effective date would not occur so that the parties could file an amended domestic relations order that would qualify as an EDRO.

This 60-day period would not limit the parties from filing an EDRO at any time before the participant's retirement effective date.

(These provisions of House Bill 4054 are similar to those in House Bill 5682 of the 2011-2012 legislative session. That bill passed the House of Representatives.)

In addition, the bill would modify the current requirement contained in the definition of "eligible domestic relations order" that says the domestic relations order be filed before the participant's retirement allowance effective date. Instead, the bill would require the domestic relations order to be filed before the participant's retirement allowance effective date or the participant's death, whichever occurred first. (The underlined language is new.)

MCL 38.1702

FISCAL IMPACT:

To the extent that the bill could increase the number of EDROs, which allow alternate payees to receive pension benefits even after a retiree is no longer living, it would create additional costs for state and local pension systems.

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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.