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BILL



ANALYSIS

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House Bill 4054 (Substitute S-1 as reported by the Committee of the Whole)

Sponsor: Representative Kurt Heise

House Committee: Judiciary

Senate Committee: Judiciary

### **CONTENT**

The bill would amend the Eligible Domestic Relations Order Act to 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.

"Eligible domestic relations order" or "EDRO" means a domestic relations order that meets certain criteria, including a requirement that the domestic relations order be filed before the participant's retirement allowance effective date. Under the bill, the domestic relations order would have to be filed with the retirement system before that date or the participant's death, whichever occurred first.

A domestic relations order must 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. Under the bill, when the retirement system received a order, the participant's retirement allowance effective date would have to be stayed and could not occur until either the retirement system accepted the domestic relations order for filing as an EDRO, or 60 days had passed, starting on the date the retirement system notified the participant and alternate payee that it would not accept the order for filing as an EDRO because of a defect in the order that disqualified it as an EDRO.

If the retirement system accepted the order for filing as an EDRO, the participant's retirement allowance effective date would occur as if that date had not been stayed. If the 60-day period applied, the parties could submit an amended order that would qualify for filing as an EDRO. The retirement system would have to give notice of rejection in the same manner as for an original order, but there could be only one 60-day period and only with respect to rejection of the first order submitted to the system. If the parties submitted an acceptable domestic relations order in a timely manner, but the retirement system did not make a determination until after the 60-day period expired, the participant's retirement allowance effective date would be further stayed until the system made the determination. If the participant died or the parties failed to submit a domestic relations order that qualified as an EDRO before the 60-day period expired, the retirement system could not accept as an EDRO any domestic relations orders pertaining to the participant.

If the retirement system determined that a previously submitted domestic relations order that was intended to qualify as an EDRO did not qualify, the retirement system would have to notify the participant and alternate payee stating the reasons why it did not qualify as an EDRO. In this case, the retirement allowance effective date would be stayed as provided above.

If an EDRO were filed with the retirement system, but the participant and alternate payee wished to file an amended EDRO, they could do so at any time before the participant's retirement allowance effective date or death, whichever occurred first. In this instance, the retirement allowance effective date would not be stayed. If the participant and alternate payee failed to submit a domestic relations order that qualified as an EDRO before the participant's retirement allowance effective date or before his or her death, whichever occurred first, the latest EDRO filed with the retirement system would govern. The EDRO could not be amended, vacated, or otherwise set aside after the retirement system had made the first payment under the EDRO or after the participant died, whichever occurred first.

MCL 38.1702 & 38.1710

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

Public employee retirement systems (both State and local) could experience increased costs associated with this legislation; however, the increased costs are not expected to be substantial. The legislation could result in additional approved EDROs compared with what otherwise will occur under current law. Because an EDRO provides a lifetime benefit to an alternate payee upon a member's retirement or death, and continues past the member's death in the event the alternate payee lives longer than the member, additional approved EDROs likely would increase the pension benefits paid out under public retirement systems. The amount of the fiscal impact is indeterminate and would depend upon the number of additional EDROs approved as a result of the legislation, and then how the actual pension benefits paid out under those additional EDROs would compare to pension payouts under current law, but any impact is not expected to be significant.

Date Completed: 4-22-13

Fiscal Analyst: Kathryn Summers

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