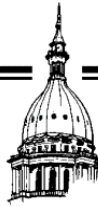




**Senate Fiscal Agency**  
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BILL



ANALYSIS

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House Bill 4054 (Substitute H-1 as passed by the House)  
Sponsor: Representative Kurt Heise  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 3-12-13

### **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.**

Under the Act, "eligible domestic relations order" or "EDRO" means a domestic relations order that meets certain requirements, including that the domestic relations order is filed before the participant's retirement allowance effective date. Under the bill, instead, the domestic relations order would have to be filed with the retirement system before the participant's retirement allowance effective date or the participant's death, whichever occurred first. "Filed with the retirement system" would mean that the retirement system has determined that the domestic relations order submitted for filing is acceptable as an EDRO.

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. If the retirement system determines that the order is an EDRO, it must promptly notify the participant and alternate payee named in the EDRO, and begin payment of a benefit pursuant to the EDRO and the Act. If the retirement system determines that an order is not an EDRO, it must promptly notify the participant and alternate payee and specify why it determined that the order is not an EDRO. A determination that a domestic relations order is not an EDRO does not prohibit a participant, alternate payee, or court from filing an amended domestic relations order with the retirement system.

Under the bill, when the retirement system received a domestic relations order, the participant's retirement allowance effective date would have to be stayed and could not occur until either of the following:

- The retirement system accepted the domestic relations order for filing as an EDRO.
- Sixty 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, during that period, the parties could submit to the retirement system an amended order that would qualify for filing as an EDRO. The retirement system would have to give notice of rejection of any amended order 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 a domestic relations order that was acceptable as an EDRO 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.

An 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.

The retirement system would have to provide all notices it was required to give to the participant or alternate payee under the Act by first-class mail addressed to the participant and alternate payee at the address listed for each in the domestic relations order submitted to the system for filing as an EDRO. If no address were listed for the participant in the domestic relations order, the retirement system would have to mail the notice to the last known address of the participant that the system had in its files. If no address were listed for the alternate payee in the domestic relations order, notice to the participant would be notice to the alternate payee. Notice would be given if the retirement system complied with these requirements and upon the date the notice was mailed.

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.

Fiscal Analyst: Kathryn Summers

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.