

HB0413S01 compared with HB0413

~~deleted text~~ shows text that was in HB0413 but was deleted in HB0413S01.

inserted text shows text that was not in HB0413 but was inserted into HB0413S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Kay L. McIff proposes the following substitute bill:

DOMESTIC RELATIONS RETIREMENT SHARES

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay L. McIff

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending certain death benefits.

Highlighted Provisions:

This bill:

- ▶ provides that a former spouse of a member who dies before retiring may receive a death benefit in certain circumstances; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

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Utah Code Sections Affected:

AMENDS:

49-12-405, as last amended by Laws of Utah 2011, Chapter 439

49-13-405, as last amended by Laws of Utah 2011, Chapter 439

49-22-502, as last amended by Laws of Utah 2011, Chapter 439

49-23-502, as last amended by Laws of Utah 2011, Chapter 439

49-23-503, as last amended by Laws of Utah 2014, Chapter 15

ENACTS:

49-14-507, Utah Code Annotated 1953

49-15-507, Utah Code Annotated 1953

49-16-508, Utah Code Annotated 1953

49-17-503, Utah Code Annotated 1953

49-18-503, Utah Code Annotated 1953

49-19-502, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **49-12-405** is amended to read:

49-12-405. Death of married member -- Service retirement benefits to surviving spouse.

(1) As used in this section, "surviving spouse" means:

(a) the lawful spouse who has been married to the member for at least six months immediately prior to the death date of the member; or

(b) a former spouse of a member with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612.

~~(1)~~ (2) Upon the request of a deceased member's ~~lawful~~ surviving spouse ~~[at the time of the member's death]~~, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 25 or more years of service credit;

(ii) attained age 60 with 20 or more years of service credit;

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(iii) attained age 62 with 10 or more years of service credit; or

(iv) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse [~~to whom the member has been married at least six months immediately prior to the death date~~].

(2) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the [~~spouse's~~] member's death.

(3) The Option Three benefit calculation, when there are 25 or more years of service credit, shall be calculated without a reduction in allowance under Section 49-12-402.

(4) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

~~[(4)]~~ (5) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any payments made under Section 49-12-501 and constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing claim for benefits under Section 49-12-501.

(6) If the death benefits under this section are proportioned among more than one surviving spouse due to domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 2. Section **49-13-405** is amended to read:

49-13-405. Death of married members -- Service retirement benefits to surviving spouse.

(1) As used in this section [~~,"member's"]:~~

(a) "Member's full allowance" means an Option Three allowance calculated under Section 49-13-402 without an actuarial reduction.

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(b) "Surviving spouse" means:

(i) the lawful spouse who has been married to the member for at least six months immediately prior to the death date of the member; or

(ii) a former spouse of a member with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612.

(2) Upon the request of a deceased member's [~~lawful~~] surviving spouse [~~at the time of the member's death~~], the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse [~~to whom the member has been married at least six months immediately prior to the death date~~].

(3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the [~~spouse's~~] member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is:

(a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive one-third of the member's full allowance; or

(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or

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older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

~~[(5)]~~ (6) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-13-501 and shall constitute a full and final settlement of the claim of the spouse or any other beneficiary filing a claim for benefits under Section 49-13-501.

(7) If the death benefits under this section are proportioned among more than one surviving spouse due to domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 3. Section **49-14-507** is enacted to read:

49-14-507. Spouse at the time of death includes certain former spouses -- Benefit calculation for former spouse.

(1) As used in this part, "spouse at the time of death" includes a former spouse of a member who is under a domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612.

(2) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(3) If the death benefits under this section are proportioned among more than one surviving spouse due to domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

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Section 4. Section **49-15-507** is enacted to read:

49-15-507. Spouse at the time of death includes certain former spouses -- Benefit calculation for former spouse.

(1) As used in this part, "spouse at the time of death" includes a former spouse of a member who is under a domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612.

(2) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(3) If the death benefits under this section are proportioned among more than one surviving spouse due to domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 5. Section **49-16-508** is enacted to read:

49-16-508. Spouse at the time of death includes certain former spouses -- Benefit calculation for former spouse.

(1) As used in this part, "spouse at the time of death" includes a former spouse of a member who is under a domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612.

(2) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(3) If the death benefits under this section are proportioned among more than one surviving spouse due to domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 6. Section **49-17-503** is enacted to read:

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49-17-503. Spouse at the time of death includes certain former spouses -- Benefit calculation for former spouse.

(1) As used in this part, "spouse at the time of death" includes a former spouse of a member who is under a domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612.

(2) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(3) If the death benefits under this section are proportioned among more than one surviving spouse due to domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 7. Section **49-18-503** is enacted to read:

49-18-503. Spouse at the time of death includes certain former spouses -- Benefit calculation for former spouse.

(1) As used in this part, "spouse at the time of death" includes a former spouse of a member who is under a domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612.

(2) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(3) If the death benefits under this section are proportioned among more than one surviving spouse due to domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 8. Section **49-19-502** is enacted to read:

49-19-502. Spouse at the time of death includes certain former spouses -- Benefit

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calculation for former spouse.

(1) As used in this part, "spouse at the time of death" includes a former spouse of a member who is under a domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612.

(2) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(3) If the death benefits under this section are proportioned among more than one surviving spouse due to domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 9. Section **49-22-502** is amended to read:

49-22-502. Death of married members -- Service retirement benefits to surviving spouse.

(1) As used in this section[, "member's"]~~{ }~~ and Section 49-22-503:

(a) "Member's full allowance" means an Option Three allowance calculated under Section 49-22-305 without an actuarial reduction.

(b) "Surviving spouse" means:

(i) the lawful spouse who has been married to the member for at least six months immediately prior to the death date of the member; or

(ii) a former spouse of a member with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612.

(2) Upon the request of a deceased member's [~~lawful~~] surviving spouse [~~at the time of the member's death~~], the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

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(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse [~~to whom the member has been married at least six months immediately prior to the death date~~].

(3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the [~~spouse's~~] member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is as follows:

(a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

~~[(5)]~~ (6) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-22-501 and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-22-501.

(7) If the death benefits under this section are proportioned among more than one surviving spouse due to domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612, the total amount received by the

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surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 10. Section **49-23-502** is amended to read:

49-23-502. Death of married members -- Service retirement benefits to surviving spouse.

(1) As used in this section[, "member's"] and Section 49-23-503:

(a) "Member's full allowance" means an Option Three allowance calculated under Section 49-23-304 without an actuarial reduction.

(b) "Surviving spouse" means:

(i) the lawful spouse who has been married to the member for at least six months immediately prior to the death date of the member; or

(ii) a former spouse of a member with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612.

(2) Upon the request of a deceased member's [~~lawful~~] surviving spouse at the time of the member's death, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse [~~to whom the member has been married at least six months immediately prior to the death date~~].

(3) The spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the [~~spouse's~~] member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is:

(a) if the member has 25 or more years of service credit at the time of death, the

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surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive one-third of the member's full allowance; or

(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

~~[(5)]~~ (6) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-23-501 and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-23-501.

(7) If the death benefits under this section or Section 49-23-503 are proportioned among more than one surviving spouse due to domestic relations order benefits on file with the office prior to the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 11. Section **49-23-503** is amended to read:

49-23-503. Death of active member in line of duty -- Payment of benefits.

If an active member of this system dies, benefits are payable as follows:

(1) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(a) If the member has accrued less than 20 years of public safety service or firefighter service credit, the surviving spouse [~~at the time of death~~] shall receive a lump sum of \$1,000

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and an allowance equal to 30% of the member's final average monthly salary.

(b) If the member has accrued 20 or more years of public safety service or firefighter service credit, the member shall be considered to have retired with an Option One allowance calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse [~~at the time of death~~] shall receive the allowance that would have been payable to the member.

(2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this section if the death results from external force, violence, or disease directly resulting from firefighter service.

(b) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(c) Each volunteer fire department shall maintain a current roll of all volunteer firefighters which meet the requirements of Subsection 49-23-102(12) to determine the eligibility for this benefit.

(3) (a) If the death is classified as a line-of-duty death by the office, death benefits are payable under this section and the surviving spouse [~~at the time of death~~] is not eligible for benefits under Section 49-23-502.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable in accordance with Section 49-23-502.

(4) (a) A surviving spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

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Legislative Review Note

~~as of 2-24-15 12:39 PM~~

~~Office of Legislative Research and General Counsel~~