

*House Bill 1065*

JAN 14 1991

HOUSE FILE 5

STATE GOVERNMENT  
*De. Pass 2/2 (p. 770)*

BY CONNORS

Passed House, Date 4/2/91 (p. 1001) Passed Senate, Date 4/10/91 (p. 126)  
Vote: Ayes 96 Nays 0 Vote: Ayes 50 Nays 0  
Approved April 22, 1991 (p. 1472)

A BILL FOR

1 An Act relating to the payment of pension benefits to surviving  
2 spouses under the chapters 97A, 410, and 411 retirement  
3 systems, and providing retroactive applicability dates.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 5

1 Section 1. Section 97A.6, subsection 8, paragraph b,  
2 unnumbered paragraph 5, Code 1991, is amended to read as  
3 follows:

4 Notwithstanding section 97A.6, subsection 8, Code 1985,  
5 effective July 1, 1990, for a member's surviving spouse who,  
6 prior to July 1, 1986, elected to receive pension benefits  
7 under this paragraph, the monthly pension benefit shall be  
8 equal to the higher of one-twelfth of forty percent of the  
9 average final compensation of the member, or the amount the  
10 surviving spouse was receiving on July 1, 1990.

11 Sec. 2. Section 410.10, Code 1991, is amended to read as  
12 follows:

13 410.10 PENSIONS -- SURVIVING SPOUSE -- CHILDREN --  
14 DEPENDENTS.

15 Upon the death of any acting or retired member of such  
16 departments, leaving a spouse or minor children, or dependent  
17 father or mother surviving, there shall be paid out of said  
18 fund as follows:

19 1. To the surviving spouse, ~~so long as said spouse remains~~  
20 ~~unmarried~~, a sum equal to one-half of the deceased member's  
21 total adjusted pension as provided for in section 410.6, but  
22 in no event less than seventy-five dollars per month.

23 2. If there be no surviving spouse, or upon the death or  
24 remarriage of such spouse, then to the dependent father and  
25 mother, if both survive, or to either dependent parent, if one  
26 survives, thirty dollars per month.

27 3. To the guardian of each surviving child under eighteen  
28 years of age, twenty dollars per month.

29 Effective July 1, 1991, the remarriage of a surviving  
30 spouse does not make the spouse ineligible to receive benefits  
31 under this section, and for a surviving spouse who remarried  
32 prior to July 1, 1991, the remarriage does not make the spouse  
33 ineligible to receive benefits under this section.

34 However, the benefits provided by this section are subject  
35 to the following definitions: The term "spouse" means a

1 surviving spouse of a marriage contracted prior to retirement  
2 of a deceased member from active service, or of a marriage of  
3 a retired member contracted prior to March 2, 1934. Surviving  
4 spouse includes a former spouse only if the division of assets  
5 in the dissolution of marriage decree pursuant to section  
6 598.17 grants the former spouse rights of a spouse under this  
7 chapter. If there is no surviving spouse of a marriage  
8 contracted prior to retirement of a deceased member, or of a  
9 marriage of a retired member contracted prior to March 2,  
10 1934, surviving spouse includes a surviving spouse of a  
11 marriage of two years or more duration contracted subsequent  
12 to retirement of the member. The terms "child" and "children"  
13 mean only the surviving issue of a deceased active or retired  
14 member, or the child or children legally adopted by a deceased  
15 member prior to the member's retirement from active service.

16 This section and its provisions shall be interpreted for  
17 all purposes as including all surviving spouses.

18 Sec. 3. Section 411.6, subsection 8, paragraph b,  
19 unnumbered paragraph 4, Code 1991, is amended to read as  
20 follows:

21 Notwithstanding section 411.6, subsection 8, Code 1985,  
22 effective July 1, 1990, for a member's surviving spouse who,  
23 prior to July 1, 1986, elected to receive pension benefits  
24 under this paragraph, the monthly pension benefit shall be  
25 equal to the higher of one-twelfth of forty percent of the  
26 average final compensation of the member, or the amount the  
27 surviving spouse was receiving on July 1, 1990.

28 Sec. 4. APPLICABILITY.

29 1. Sections 1 and 3 of this Act are retroactively  
30 applicable to July 1, 1990, and are applicable on and after  
31 that date.

32 2. The provision of section 2 of this Act relating to the  
33 remarriage of a surviving spouse prior to July 1, 1991, is  
34 applicable to benefits payable on or after July 1, 1991.

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EXPLANATION

1 This bill removes the remarriage penalty for surviving  
2 spouses of disabled and retired fire fighters and police  
3 officers under the chapter 410 retirement system. The bill  
4 applies to surviving spouses who remarried prior to July 1,  
5 1991, and to surviving spouses who remarry on or after July 1,  
6 1991. For surviving spouses who remarried prior to July 1,  
7 1991, their benefits would only be paid prospectively  
8 beginning July 1, 1991.

9 The bill also prevents the reduction of ordinary death  
10 benefits to a member's surviving spouse under chapters 97A and  
11 411 by providing that such benefits shall be the higher of  
12 one-twelfth of forty percent of the average final  
13 compensation, or the amount the surviving spouse was receiving  
14 on July 1, 1990. These sections of the bill apply  
15 retroactively to July 1, 1990, when the new formula was  
16 effective.

17 The bill may include a state mandate as defined in section  
18 25B.3.

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**HOUSE FILE 5  
FISCAL NOTE**

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A fiscal note for House File 5 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 5 removes the remarriage penalty for surviving spouses of disabled and retired fire fighters and police officers covered by the retirement system under Chapter 410. Surviving spouses who have already remarried can begin receiving benefits upon enactment of this bill.

The bill also prevents the reduction of ordinary death benefits to a members' surviving spouse under Chapters 97A and 411. Payments for this change will be retroactive to July 1, 1990.

**Fiscal Impact:**

There should be no effect from the change to Chapter 97A. This language was added during the 1990 Session by House File 2543 and effectively eliminated the minimum benefit for surviving spouses. The Attorney General advised the Peace Officer Retirement Board not to reduce benefits to surviving spouses on July 1, 1990. In the Attorney General's opinion, previously earned benefits could not be reduced. The POR Board did not reduce benefits to any surviving spouses. Therefore, bringing the benefit back to what it was has no effect.

At this time, no actuarial estimate of the effects to cities is available. A small sample of cities were contacted for their evaluations as to the effects of this change. Des Moines has only one person that would be affected and expects the effects to be minimal. Sioux City has 16 persons who are Chapter 410 beneficiaries and does not expect the change to have an effect. Decorah has one person who will be affected and will experience an increased cost of \$2,686 at current benefit rates. Spencer has one surviving (and apparently remarried) spouse that would be affected; this would cost the City of Spencer an additional \$9,000 annually at current rates.

Sources: Department of Public Safety  
City of Des Moines  
City of Sioux City  
City of Decorah  
City of Spencer

(LSB 1065hh, MDF)

FILED APRIL 1, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 5

AN ACT

RELATING TO THE PAYMENT OF PENSION BENEFITS TO SURVIVING SPOUSES UNDER THE CHAPTERS 97A, 410, AND 411 RETIREMENT SYSTEMS, AND PROVIDING RETROACTIVE APPLICABILITY DATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 97A.6, subsection 8, paragraph b, unnumbered paragraph 5, Code 1991, is amended to read as follows:

Notwithstanding section 97A.6, subsection 8, Code 1985, effective July 1, 1990, for a member's surviving spouse who, prior to July 1, 1986, elected to receive pension benefits under this paragraph, the monthly pension benefit shall be equal to the higher of one-twelfth of forty percent of the average final compensation of the member, or the amount the surviving spouse was receiving on July 1, 1990.

Sec. 2. Section 410.10, Code 1991, is amended to read as follows:

410.10 PENSIONS -- SURVIVING SPOUSE -- CHILDREN -- DEPENDENTS.

Upon the death of any acting or retired member of such departments, leaving a spouse or minor children, or dependent father or mother surviving, there shall be paid out of said fund as follows:

1. To the surviving spouse, ~~so long as said spouse remains unmarried,~~ a sum equal to one-half of the deceased member's total adjusted pension as provided for in section 410.6, but in no event less than seventy-five dollars per month.

2. If there be no surviving spouse, or upon the death or remarriage of such spouse, then to the dependent father and mother, if both survive, or to either dependent parent, if one

survives, thirty dollars per month.

3. To the guardian of each surviving child under eighteen years of age, twenty dollars per month.

Effective July 1, 1991, the remarriage of a surviving spouse does not make the spouse ineligible to receive benefits under this section, and for a surviving spouse who remarried prior to July 1, 1991, the remarriage does not make the spouse ineligible to receive benefits under this section.

However, the benefits provided by this section are subject to the following definitions: The term "spouse" means a surviving spouse of a marriage contracted prior to retirement of a deceased member from active service, or of a marriage of a retired member contracted prior to March 2, 1934. Surviving spouse includes a former spouse only if the division of assets in the dissolution of marriage decree pursuant to section 598.17 grants the former spouse rights of a spouse under this chapter. If there is no surviving spouse of a marriage contracted prior to retirement of a deceased member, or of a marriage of a retired member contracted prior to March 2, 1934, surviving spouse includes a surviving spouse of a marriage of two years or more duration contracted subsequent to retirement of the member. The terms "child" and "children" mean only the surviving issue of a deceased active or retired member, or the child or children legally adopted by a deceased member prior to the member's retirement from active service.

This section and its provisions shall be interpreted for all purposes as including all surviving spouses.

Sec. 3. Section 411.6, subsection 8, paragraph b, unnumbered paragraph 4, Code 1991, is amended to read as follows:

Notwithstanding section 411.6, subsection 8, Code 1985, effective July 1, 1990, for a member's surviving spouse who, prior to July 1, 1986, elected to receive pension benefits under this paragraph, the monthly pension benefit shall be equal to the higher of one-twelfth of forty percent of the

average final compensation of the member, or the amount the surviving spouse was receiving on July 1, 1990.

Sec. 4. APPLICABILITY.

1. Sections 1 and 3 of this Act are retroactively applicable to July 1, 1990, and are applicable on and after that date.

2. The provision of section 2 of this Act relating to the remarriage of a surviving spouse prior to July 1, 1991, is applicable to benefits payable on or after July 1, 1991.

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ROBERT C. ARNOULD  
Speaker of the House

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JOE J. WELSH  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 5, Seventy-fourth General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved 4/22, 1991

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TERRY E. BRANSTAD  
Governor