RBS No. 618

An Act

ENROLLED SENATE
BILL NO. 462

By: Brinkley of the Senate

and

McDaniel (Randy) of the House

An Act relating to retirement; amending Section 11, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.11), which relates to qualified domestic orders; modifying certain payment requirements; and providing an effective date.

SUBJECT: Qualified domestic order

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 11, Chapter 375, O.S.L. 2014 (74 O.S. Supp. 2014, Section 935.11), is amended to read as follows:

Section 935.11. A. Except as otherwise provided by this section or in subsection D of Section ~~5~~ 935.5 of this ~~act~~ title, no alteration, amendment, or repeal of this act shall affect the then-existing rights of participating employees and beneficiaries, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by an employee after such alteration, amendment, or repeal. Any benefits, fund, property, or rights created by or accruing to any person under the provisions of this act shall not be subject to execution, garnishment or attachment, or any other process or claim whatsoever, and shall be unassignable, except as specifically provided by this section. Notwithstanding the foregoing, the Board may offset any amounts held

by a participant in the plan or beneficiary to pay a judgment or settlement against a participating employee or beneficiary for a crime involving the System, for a fraud or breach of the participating employee's fiduciary duty to the System, or for funds or monies incorrectly paid to a participating employee or a beneficiary, provided such offset is in accordance with the requirements of Section 401(a)(13) or similar provisions of the Internal Revenue Code. The offset applies to any assets held in the plan which may otherwise be payable to a participating employee or beneficiary from the plan administered by the Board.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a participating employee or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the funds payable with respect to a participant in the plan.

3. For purposes of the payment of marital property, to qualify as an alternate payee a spouse or former spouse must have been married to the related participating employee for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Board and the related participating employee only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the participating employee and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the participating employee's funds or assets to be paid by the System to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,

b. does not require the System to provide increased benefits, and

c. does not require the payment of funds or assets to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to ~~the effective date of this act~~ November 1, 2014.

7. ~~A qualified domestic order shall not require payment of funds or assets to an alternate payee prior to the actual permitted distribution date or withdrawal of the related participating employee.~~

~~8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related participating employee.~~

~~9.~~ This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A., Section 1001 et seq., as amended from time to time, or

rules and regulations promulgated thereunder, and court cases interpreting ~~said~~ the act.

~~10.~~ 8. The Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

~~11.~~ 9. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 2. This act shall become effective November 1, 2015.

Passed the Senate the 24th day of February, 2015.

Presiding Officer of the Senate

Passed the House of Representatives the 31st day of March, 2015.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 1st day of April, 2015, at 2:58 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 7th day of April, 2015, at 2:40 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 7th day of April, 2015, at 3 o'clock P. M.

By: C. Benge

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January 21, 2015

Senator Rick Brinkley
Room 238

Re: RBS No. 618

RBS No. 618 allows benefits to be paid under a Qualified Domestic Relations Order to an ex spouse before the OPERS participant has begun to receive benefits. It would allow the benefits to continue be paid to an ex spouse after the participant had died.

RBS No. 618 is a nonfiscal retirement bill as defined by the Oklahoma Pension Legislation Analysis Act.

Thomas E. Cummins

Thomas E. Cummins, MAAA