

CHAPTER 315
FORMERLY
HOUSE BILL NO. 137
AS AMENDED BY
HOUSE AMENDMENT NO. 2 AS AMENDED BY HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT
NO. 2

AN ACT TO AMEND TITLES 11 AND 29 OF THE DELAWARE CODE RELATING TO THE STATE EMPLOYEES' PENSION PLAN, THE COUNTY AND MUNICIPAL EMPLOYEES' PENSION PLAN, THE COUNTY AND MUNICIPAL POLICE/FIREFIGHTER PENSION PLAN, THE STATE JUDICIARY PENSION PLAN, THE STATE POLICE PENSION PLAN, AND PENSIONS.

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

Section 1. Amend §5527(g), Title 29 of the Delaware Code as follows:

(g) (1) Notwithstanding provisions of this chapter to the contrary, an employee may elect to have his or her service or disability pension computed under this chapter reduced by 2% thereby providing a survivor's pension equal to $\frac{2}{3}$ of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(2) Notwithstanding provisions of this section to the contrary, an employee may elect to have his or her service or disability pension, computed under this section, reduced by 3% thereby providing a survivor's pension equal to 75% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of his or her first benefit check and shall be irrevocable.

(3) Notwithstanding the provisions of this section to the contrary, an individual receiving a service or disability pension which was effective prior to July 1, 1989, or an individual with a vested right to a service pension may elect to have his or her service or disability pension reduced by 3%, thereby providing a survivor's pension equal to 75% of such reduced amount to his or her eligible survivor or survivors at the time of his or her death. This election must be made in a form approved by the Board, filed prior to December 15, 1989, to be effective January 1, 1990, for individuals receiving a service or disability pension on July 1, 1989, or, in the case of an individual with a vested right to a service pension, filed prior to the issuance of his or her first pension check.

(4) Notwithstanding provisions of this chapter to the contrary, an employee may elect to have his or her service or disability pension computed under this chapter reduced by 6% thereby providing a survivor's pension equal to 100% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

Section 2. Amend §5528(b)(1), Title 29 of the Delaware Code as follows:

(b) (1) Upon the death of an individual receiving a service or disability pension at the time of his or her death, a monthly survivor's pension shall be payable to his or her eligible survivor or survivors equal to the greater of (i) 50% of such service or disability pension, (ii) if such pension was computed under the provisions of §5627(g)(1) of this title, $\frac{2}{3}$ of such service or disability pension; (iii) if such pension was computed under the provisions of § 5527(g)(2) or § 5527(g)(3) of this title, 75% of such service or disability pension; or (iv) if such pension was computed under the provisions of §5527(g)(4) of this title, 100% of such service or disability pension.

Section 3. Amend §5613(3), Title 29 of the Delaware Code as follows:

(3) a. Notwithstanding provisions of this section to the contrary, a member may elect to have his or her service or disability pension, computed under this section, reduced by 2%, thereby providing a survivor's pension equal to two-thirds of such reduced amount to their eligible survivor or survivors at the time of the member's death. This election must be made in a form approved by the Board, filed prior to the issuance of the member's first benefit check, and shall be irrevocable.

b. Notwithstanding the provisions of this section to the contrary, an individual receiving a service or disability pension which was effective prior to July 1, 2001, or an individual with a vested right to a service pension, may elect to have his or her service or disability pension reduced by 2%, thereby providing a survivor's pension

equal to two-thirds of such reduced amount to his or her eligible survivor or survivors at the time of his or her death. This election must be made in a form approved by the Board, filed prior to December 15, 2001, to be effective January 1, 2002, for the individual receiving a service or disability pension on July 1, 2001, or, in the case of an individual with a vested right to a service pension, filed prior to the issuance of the individual's first pension check.

c. Notwithstanding provisions of this section to the contrary, a member may elect to have his or her service or disability pension, computed under this section, reduced by 3%, thereby providing a survivor's pension equal to 75% of such reduced amount to the member's eligible survivor or survivors at the time of the member's death. This election must be made in a form approved by the Board, filed prior to the issuance of the member's first benefit check, and shall be irrevocable.

d. Notwithstanding provisions of this section to the contrary, a member may elect to have his or her service or disability pension, computed under this section, reduced by 6%, thereby providing a survivor's pension equal to 100% of such reduced amount to the member's eligible survivor or survivors at the time of the member's death. This election must be made in a form approved by the Board, filed prior to the issuance of the member's first benefit check, and shall be irrevocable.

Section 4. Amend §5577, Title 29 of the Delaware Code as follows:

§ 5577. Amount of monthly service or disability pension.

(a) The amount of the monthly service or disability pension payable to a retired member shall be 1/60 of the retired member's final average compensation multiplied by the number of years, taken to the nearest twelfth of a year, in the retired member's period of credited service.

(b) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 2% thereby providing a survivor's pension equal to 2/3 of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(c) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 3% thereby providing a survivor's pension equal to 75% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(d) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 6% thereby providing a survivor's pension equal to 100% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

Section 5. Amend § 8821A, Title 11 of the Delaware Code as follows:

§ 8821A. Amount of ordinary service or disability pensions.

(a) Notwithstanding provisions of this chapter to the contrary, an employee may elect to have his or her service or disability pension computed under this chapter reduced by 2% thereby providing a survivor's pension equal to 2/3 of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(b) Notwithstanding provisions of this chapter to the contrary, an employee may elect to have his or her service or disability pension computed under this chapter reduced by 3% thereby providing a survivor's pension equal to 75% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(c) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 6% thereby providing a survivor's pension

equal to 100% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

Section 6. Amend § 8822, Title 11 of the Delaware Code as follows:

§ 8822. Ordinary survivor's pension.

(a) Upon the death of a member in service, a monthly survivor's pension shall be payable to his or her eligible survivor or survivors equal to 3/4 of the service pension the employee would have been eligible to receive had he or she elected the option provided under § 8821A(b) of this title.

(b) Upon the death of an employee in service, whose death occurred in the line of duty, a monthly survivor's pension shall be payable to the primary survivor equal to 3/4 of the member's compensation.

(c) Upon the death of an individual receiving a service or disability pension at the time of his or her death, a monthly survivor's pension shall be payable to the primary survivor and surviving dependents equal to the greater of (i) 50% of such service or disability pension, (ii) if such pension was computed under the provisions of § 8821A(a) of this title, 2/3 of such service or disability pension; (iii) if such pension was computed under the provisions of § 8821A(b) of this title, 75% of such service or disability pension; or (iv) if such pension was computed under the provisions of § 8821A(c) of this title, 100% of such service or disability pension. If the primary survivor is the surviving spouse, such person must have been married to the deceased member:

(1) Prior to retirement; or

(2) For at least 1 year before the date of death, unless the death was the result of an accident.

(d) A survivor's pension shall begin with the month following the month in which the member or retired member dies. If payable to a surviving spouse who dies or marries, it shall become payable in the following month to the next primary survivor as defined in § 8801 of this title or cease with that month in the absence of the eligible dependents. If payable to a child who dies or fails to meet the conditions of eligibility in § 8801(4) of this title, it shall become payable in the following month to a dependent parent or cease with that month in the absence of eligible parents. If payable to a parent, it shall cease with the month in which the parent dies.

Section 7. Amend § 8368, Title 11 of the Delaware Code as follows:

§ 8368. Amount of ordinary service pension.

(a) The amount of the monthly ordinary service pension payable to a retired member shall be the sum of 2.5% of final average compensation multiplied by years of service up to 20 years inclusive, plus 3.5% of final average compensation multiplied by years of service above 20 years.

(b) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 2% thereby providing a survivor's pension equal to 2/3 of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(c) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 3% thereby providing a survivor's pension equal to 75% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

(d) Notwithstanding provisions of this chapter to the contrary, a member may elect to have his or her service or disability pension computed under this chapter reduced by 6% thereby providing a survivor's pension equal to 100% of such reduced amount to the employee's eligible survivor or survivors at the time of the employee's death. This election must be made in a form approved by the Board, filed prior to the issuance of the employee's first benefit check and shall be irrevocable.

Section 8. Amend § 8372, Title 11 of the Delaware Code as follows:

§ 8372. Ordinary survivor's pension.

(a) Upon the death of a member in service, a monthly survivor's pension shall be payable to the primary survivor equal to one half of the member's compensation.

(b) Upon the death of a member in service, whose death occurred in the line of duty, a monthly survivor's pension shall be payable to the primary survivor equal to three-quarters of the member's compensation.

(c) Upon the death of a retired member, a monthly survivor's pension shall be payable to the primary survivor and surviving dependents equal to the greater of (i) one half of such service or disability pension, (ii) if such pension was computed under the provisions of § 8368(b) of this title, 2/3 of such service or disability pension; (iii) if such pension was computed under the provisions of § 8368(c) of this title, 75% of such service or disability pension; or (iv) if such pension was computed under the provisions of § 8368(d) of this title, 100% of such service or disability pension. If the primary survivor is the surviving spouse, such person must have been married to the deceased member:

(1) Prior to retirement; or

(2) For at least 1 year before the date of death, unless the death was the result of an accident.

(d) A survivor's pension shall begin with the month following the month in which the member or retired member dies. If payable to a surviving spouse who dies, it shall become payable in the following month to the next primary survivor as defined in § 8351(13) of this title or cease with that month in the absence of eligible dependents. If payable to a child who dies or fails to meet the conditions of eligibility in § 8351(4) of this title it shall become payable in the following month to a dependent parent or cease with that month in the absence of eligible parents. If payable to a parent, it shall cease with the month in which the parent dies.

Section 9. Amend § 6514(b), Title 29 of the Delaware Code as follows:

(b) Upon the death of a member covered by the revised plan and receiving a service or disability pension at the time of his or her death, a monthly survivor's pension shall be payable to his or her eligible survivor or survivor's equal to (i) one-half of such service or disability pension, or (ii) if such pension was computed under § 5613(3)(a) or (b), two-thirds of such service or disability pension; or (iii) if such pension was computed under § 5613(3)(c), 75% of such service or disability pension; or (iv) if such pension was computed under § 5613(3)(d), 100% of such service or disability pension.

Section 10. The provisions of this Act shall become effective for those retiring with an effective date of retirement on or after January 1, 2015.

Approved July 15, 2014