

SUBJECT: Interest in certain employee benefits under marital property agreements

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 6 ayes — Dutton, Eiland, Bolton, Farrar, Gonzalez Toureilles, Strama
0 nays
3 absent — Farias, Hernandez, Vaught

SENATE VOTE: On final passage, April 4 — 30-0

WITNESSES: None

BACKGROUND: In 2005, the 79th Legislature enacted HB 410 by Goodman, which defined the community and separate property interests in retirement benefits, as well as stock options and restricted stock. HB 410 did not address all of the property involved in defined benefit plans.

DIGEST: CSSB 990 would amend Family Code, sec. 3.007, to change the formulas used to calculate the spouse's separate property in the option or restricted stock granted to the spouse based on when the stock was granted to the spouse — before or during marriage — and whether the grant required continued employment — during marriage or following the date of dissolution — before it could be exercised or the restriction removed.

The bill would also add Family Code, secs. 4.107 and 4.207 to specify that a statute of limitations applicable to an action asserting a claim for relief under a premarital or marital property agreement would be tolled during the marriage of the parties to the agreement. The equitable defenses limiting time for enforcement, including laches and estoppel, would be available to either party.

The bill would repeal Family Code, secs. 3.007(a), (b), and (f), which enable the characterization of the marital interest to depend on the defined benefit plan's vesting date, and rules on how to determine the vesting date.

The changes to the formula to calculate the spouse's separate property in stock or options apply prospectively. The tolling of the statute of limitations for a claim of relief under a premarital or marital agreement apply retroactively.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

NOTES:

The House committee substitute added the provisions regarding the statute of limitations for a claim of relief under a premarital or marital agreement, allowing equitable defenses.