

By: Dutton

H.B. No. 460

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the designation of a child support obligee as an  
3 alternate payee under a qualified domestic relations order.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 804.001, Government Code, is amended by  
6 amending Subdivisions (1) and (2) and adding Subdivisions (1-a),  
7 (2-a), and (6) to read as follows:

8 (1) "Alternate payee" means a spouse, former spouse,  
9 child support obligee, child, or other dependent of a member or  
10 retiree who is recognized by a domestic relations order as having a  
11 right to receive all or a portion of the benefits payable by a  
12 public retirement system with respect to such member or retiree.

13 (1-a) "Child support obligee" has the meaning assigned  
14 to "obligee" by Section 101.021, Family Code.

15 (2) "Domestic relations order" means any judgment,  
16 decree, or order, including approval of a property settlement  
17 agreement, which relates to the provision of child support, alimony  
18 payments, or marital property rights to a spouse, former spouse,  
19 child support obligee, child, or other dependent of a member or  
20 retiree, and is made pursuant to a domestic relations law,  
21 including a community property law of the State of Texas or of  
22 another state.

23 (2-a) "Obligor" has the meaning assigned by Section  
24 101.022, Family Code.

1           (6) "Title IV-D agency" has the meaning assigned by  
2 Section 101.033, Family Code.

3           SECTION 2. Section 804.003, Government Code, is amended by  
4 adding Subsection (p) to read as follows:

5           (p) Benefits paid to a child support obligee as an alternate  
6 payee are considered, for federal tax purposes, as benefits payable  
7 to the child and shall be reported as taxable income of the retiree  
8 who is the obligor under Section 402(a), Internal Revenue Code of  
9 1986.

10          SECTION 3. Subchapter A, Chapter 804, Government Code, is  
11 amended by adding Section 804.006 to read as follows:

12          Sec. 804.006. INCOME WITHHOLDING ORDER OR WRIT CONSIDERED  
13 QUALIFIED DOMESTIC RELATIONS ORDER. (a) An order or writ issued by  
14 a court of this state or the Title IV-D agency and received by a  
15 public retirement system to withhold income for child support from  
16 a retiree receiving benefits from the retirement system is  
17 considered a qualified domestic relations order.

18          (b) The child support obligee named in an order or writ  
19 under Subsection (a) is considered an alternate payee.

20          (c) Except as provided by Subsections (e) and (f), the  
21 public retirement system shall remit payments in accordance with  
22 the instructions in the order or writ under Subsection (a).

23          (d) The public retirement system shall pay the lesser of:

24               (1) the sum of amounts stated in the order or writ for  
25 current child support, past due child support, current medical  
26 support, and past due medical support; or

27               (2) 55 percent of the amount otherwise payable to the

1 retiree.

2 (e) Under an order or writ described by Subsection (a), the  
3 public retirement system shall execute only those withholding  
4 instructions in the order or writ that relate to current child  
5 support, past due child support, current medical support, and past  
6 due medical support.

7 (f) If the payment frequency in the order or writ differs  
8 from the frequency of the retirement plan distributions, the public  
9 retirement system shall adjust the payment amount stated in the  
10 order or writ to reflect the frequency of retirement plan  
11 distributions.

12 (g) A retiree subject to this section is entitled to the due  
13 process provisions under Chapter 158, Family Code, accorded a child  
14 support obligor whose employer receives a withholding order.

15 (h) If a member has not begun receiving retirement benefits  
16 under the plan administered by the public retirement system when  
17 the public retirement system receives an order or writ to withhold  
18 child support, the order or writ is considered unqualified and no  
19 response by the public retirement system to the submitter of the  
20 order is required. In response to inquiries about an unqualified  
21 order or writ under this subsection, the public retirement system  
22 shall provide the reason why the order or writ is considered  
23 unqualified.

24 (i) If a public retirement system receives under Subsection  
25 (a) more than one order or writ with regard to the same child  
26 support obligee for the same suit affecting the parent-child  
27 relationship, the retirement system shall comply with the

1 requirements of the most recently received order or writ. For  
2 purposes of determining the priority of competing qualified  
3 domestic relations orders, the retirement system shall consider the  
4 date of the most recently received order or writ to be the date on  
5 which the retirement system received the first order or writ for the  
6 same child support obligee for the same suit affecting the  
7 parent-child relationship.

8 (j) An order or writ is terminated on the date that the  
9 public retirement system receives:

10 (1) a subsequent order or writ that orders zero  
11 dollars withheld;

12 (2) an order from the court stating that the original  
13 order or writ is terminated; or

14 (3) a notice from the Title IV-D agency stating that  
15 the order or writ is terminated.

16 SECTION 4. The change in law made by this Act applies to an  
17 order or writ for withholding child support received by a public  
18 retirement system on or after the effective date of this Act. An  
19 order or writ for withholding child support received before the  
20 effective date of this Act is governed by the law in effect on the  
21 date the order or writ was received, and that law is continued in  
22 effect for that purpose.

23 SECTION 5. This Act takes effect September 1, 2005.