

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health and Human Services Appropriations Committee

BILL: SM 1328

INTRODUCER: Senator Storms

SUBJECT: Survivor Benefit Plan/Military Widows and Widowers

DATE: April 12, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Pardue</u>	<u>MS</u>	Favorable
2.	<u>Hansen</u>	<u>Hansen</u>	<u>HA</u>	Favorable
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Memorial 1328 requests the United States Congress to amend federal law to eliminate the offset for Dependency and Indemnity Compensation received by widows and widowers who also receive benefits under the Survivor Benefit Plan.

Approval of this Senate Memorial will have no fiscal impact on the state or local governments.

This Senate Memorial does not amend, create, or repeal any provisions of the Florida Statutes.

II. Present Situation:

Dependency and Indemnity Compensation

For any veteran who dies after December 31, 1956, from a service-connected or compensable disability, the veteran's surviving spouse, children, or parents are entitled to receive Dependency and Indemnity Compensation (DIC).¹ This compensation benefit is received through the United States Department of Veterans Affairs.

For a survivor to be eligible for DIC, the veteran's death must have resulted from one of the following causes:

- A disease or injury incurred or aggravated in the line of duty while on active duty or active duty for training;

¹ 38 USC section 1310

- An injury, heart attack, cardiac arrest, or stroke incurred or aggravated in the line of duty while on inactive duty for training; or
- A service-connected disability or a condition direction related to a service connected disability.²

DIC may also be paid to a survivor of a veteran if the veteran was totally disabled from a service-connected condition at the time of death, even though the disability was not the cause of the veteran’s death. The survivor qualifies if the veteran was:

- Continuously rated totally disabled for a period of 10 years immediately preceding death;
- Continuously rated totally disabled from the date of military discharge and for at least five years immediately preceding death; or
- A former POW who died after September 30, 1999, and who was continuously rated totally disabled for a period of at least one year immediately preceding death.

Payments under DIC are offset by any amount received from judicial proceedings brought on by the veteran’s death. The veteran’s discharge must have been under conditions other than dishonorable.³

DIC Payment Rates for Surviving Spouses*

Allowances	Monthly Rate
Basic Payment Rate	\$1,154
Additional Allowances:	
Each Dependent Child	\$286
Aid and Attendance	\$286
Housebound	\$135

Source: U. S. Department of Veterans Affairs

*Veterans who died on or after January 1, 1993.

Survivor Benefit Plan

The Survivor Benefit Plan (SBP) is an annuity plan administered by the United States Department of Defense for the benefit of surviving spouses and dependent children of retired service-members.⁴

All military retirement pay stops upon the death of the military retiree unless the member has elected to participate in SBP. A retired member who elects SBP participation pays premiums which are deducted from his or her monthly retired or retainer pay. The service-member may elect several coverage options including spouse and dependent children, dependent children only, or another person such as a business partner if the member does not have a spouse or dependent children.

² U. S. Department of Veterans Affairs website at http://www1.va.gov/opa/publications/benefits_book/benefits_chap11.asp last viewed on February 23, 2010.

³ Id.

⁴ 10 USC section 1448

The survivor/s continues to receive 55% of the retired member's elected base amount after the member's death. The base amount ranges from a minimum of \$300 up to a maximum of full retired pay.⁵

The following table illustrates typical SBP monthly costs and benefit payments for a range of base amounts.

SBP Benefits

Base Amount	SBP Costs	Benefits Before Age 62
\$300.00	\$7.50	\$165
\$635.00	\$15.87	\$300
\$800.00	\$32.37	\$440
\$1,361.00	\$88.46	\$600
\$1,400.00	\$91.00	\$770
\$1,800.00	\$117.00	\$990
\$2,200.00	\$143.00	\$1,210

Source: U. S. Department of Defense

Benefits Offset

Current federal law requires that the amount a survivor receives under the SBP be offset by the amount the survivor receives under DIC.⁶ There is an exception for certain surviving spouses who remarry after age 57.⁷

Opponents of the offset argue that SBP benefits are paid for by the retired member much as one would purchase a life insurance policy or an annuity from a commercial source. DIC is a separate benefit paid to eligible veterans and should not be connected to a retired member's SBP. DIC offset decreases the value of the member's SBP annuity. In addition, there is no similar offset for DIC benefits for those survivors who also receive retirement benefits under the federal civil retirement system.

III. Effect of Proposed Changes:

Senate Memorial 1328 requests the Congress of the United States to amend federal law to eliminate the offset for Dependency and Indemnity Compensation received by widows and widowers who also receive benefits under the Survivor Benefit Plan.

Copies of the memorial are to be dispatched to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

⁵ U. S. Department of Defense website at http://militarypay.defense.gov/survivor/sbp/04_cost_spouse.html last viewed on February 23, 2010.

⁶ 10 USC 1450

⁷ See the Veterans Benefits Act of 2003, 38 USC section 1311 (e) (2006) (effective January 1, 2004) and Sharp v. United States, 82 Fed. Cl. 222 (2008).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Amending federal law to eliminate the DIC offset will result in additional entitlement benefit payments to eligible military widows and widowers. Additional benefit payments will be determined by the federal government based on variables presented by each beneficiary's individual case.

C. Government Sector Impact:

There is no state government fiscal impact in eliminating the federal DIC offset.

There are an estimated 54,000 military spouse survivors nationally affected by the offset of which approximately 33,000 lose their entire SBP as a result of the offset.⁸ Committee professional staff estimates that the cost to the federal government to eliminate the offset could be between \$3.5 billion and \$5.5 billion over 10 years.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁸ Philpot, Tom, "House Votes More Widows' Pay," at <http://www.military.com/features/0,15240,188081,00.html> last viewed on February 23, 2010.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
