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SENATE BILL 5221

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State of Washington

55th Legislature

1997 Regular Session

By Senators Long, Winsley, Fraser, Bauer, Franklin and Patterson; by request of Joint Committee on Pension Policy

Read first time 01/20/97. Referred to Committee on Ways & Means.

1 AN ACT Relating to eligibility for survivor benefits; amending RCW  
2 41.32.520 and 41.40.270; decodifying RCW 41.32.5305; and declaring an  
3 emergency.

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

5 **Sec. 1.** RCW 41.32.520 and 1995 c 144 s 9 are each amended to read  
6 as follows:

7 (1) Except as specified in subsection (3) of this section, upon  
8 receipt of proper proofs of death of any member before retirement or  
9 before the first installment of his or her retirement allowance shall  
10 become due his or her accumulated contributions, less any amount  
11 identified as owing to an obligee upon withdrawal of accumulated  
12 contributions pursuant to a court order filed under RCW 41.50.670, and/  
13 or other benefits payable upon his or her death shall be paid to his or  
14 her estate or to such persons, trust, or organization as he or she  
15 shall have nominated by written designation duly executed and filed  
16 with the department. If a member fails to file a new beneficiary  
17 designation subsequent to marriage, divorce, or reestablishment of  
18 membership following termination by withdrawal, lapsation, or  
19 retirement, payment of his or her accumulated contributions, less any

1 amount identified as owing to an obligee upon withdrawal of accumulated  
2 contributions pursuant to a court order filed under RCW 41.50.670, and/  
3 or other benefits upon death before retirement shall be made to the  
4 surviving spouse, if any; otherwise, to his or her estate. If a member  
5 had established ten or more years of Washington membership service  
6 credit or was eligible for retirement, the beneficiary or the surviving  
7 spouse if otherwise eligible may elect, in lieu of a cash refund of the  
8 member's accumulated contributions, the following survivor benefit plan  
9 actuarially reduced by the amount of any lump sum benefit identified as  
10 owing to an obligee upon withdrawal of accumulated contributions  
11 pursuant to a court order filed under RCW 41.50.670:

12 (a) A widow or widower, without a child or children under eighteen  
13 years of age, may elect a monthly payment of fifty dollars to become  
14 effective at age fifty, provided the member had fifteen or more years  
15 of Washington membership service credit. A benefit paid under this  
16 subsection (1)(a) shall terminate at the marriage of the beneficiary.

17 (b) The beneficiary, if a surviving spouse or a dependent (as that  
18 term is used in computing the dependent exemption for federal internal  
19 revenue purposes) may elect to receive a joint and one hundred percent  
20 retirement allowance under RCW 41.32.530.

21 (i) In the case of a dependent child the allowance shall continue  
22 until attainment of majority or so long as the department judges that  
23 the circumstances which created his or her dependent status continue to  
24 exist. In any case, if at the time dependent status ceases, an amount  
25 equal to the amount of accumulated contributions of the deceased member  
26 has not been paid to the beneficiary, the remainder shall then be paid  
27 in a lump sum to the beneficiary.

28 (ii) If at the time of death, the member was not then qualified for  
29 a service retirement allowance, the benefit shall be based upon the  
30 actuarial equivalent of the sum necessary to pay the accrued regular  
31 retirement allowance commencing when the deceased member would have  
32 first qualified for a service retirement allowance.

33 (2) If no qualified beneficiary survives a member, at his or her  
34 death his or her accumulated contributions, less any amount identified  
35 as owing to an obligee upon withdrawal of accumulated contributions  
36 pursuant to a court order filed under RCW 41.50.670, shall be paid to  
37 his or her estate, or his or her dependents may qualify for survivor  
38 benefits under benefit plan (1)(b) in lieu of a cash refund of the  
39 members accumulated contributions in the following order: Widow or

1 widower, guardian of a dependent child or children under age eighteen,  
2 or dependent parent or parents.

3 (3) ~~If a member ((who has received a determination of disability as~~  
4 ~~specified in RCW 41.32.550 and selected a retirement option under RCW~~  
5 ~~41.32.530(1)(b) dies before the first retirement allowance installment~~  
6 ~~becomes due, he or she shall receive the benefit provided under the~~  
7 ~~selected retirement option))~~ dies within sixty days following  
8 application for disability retirement under RCW 41.32.550, the  
9 beneficiary named in the application may elect to receive the benefit  
10 provided by:

11 (a) This section; or

12 (b) RCW 41.32.550, according to the option chosen under RCW  
13 41.32.530 in the disability application.

14 **Sec. 2.** RCW 41.40.270 and 1996 c 227 s 2 are each amended to read  
15 as follows:

16 (1) Except as specified in subsection (4) of this section, should  
17 a member die before the date of retirement the amount of the  
18 accumulated contributions standing to the member's credit in the  
19 employees' savings fund, less any amount identified as owing to an  
20 obligee upon withdrawal of accumulated contributions pursuant to a  
21 court order filed under RCW 41.50.670, at the time of death:

22 (a) Shall be paid to the member's estate, or such person or  
23 persons, trust, or organization as the member shall have nominated by  
24 written designation duly executed and filed with the department; or

25 (b) If there be no such designated person or persons still living  
26 at the time of the member's death, or if a member fails to file a new  
27 beneficiary designation subsequent to marriage, remarriage, dissolution  
28 of marriage, divorce, or reestablishment of membership following  
29 termination by withdrawal or retirement, such accumulated  
30 contributions, less any amount identified as owing to an obligee upon  
31 withdrawal of accumulated contributions pursuant to a court order filed  
32 under RCW 41.50.670, shall be paid to the surviving spouse as if in  
33 fact such spouse had been nominated by written designation as  
34 aforesaid, or if there be no such surviving spouse, then to the  
35 member's legal representatives.

36 (2) Upon the death in service, or while on authorized leave of  
37 absence for a period not to exceed one hundred and twenty days from the  
38 date of payroll separation, of any member who is qualified but has not

1 applied for a service retirement allowance or has completed ten years  
2 of service at the time of death, the designated beneficiary, or the  
3 surviving spouse as provided in subsection (1) of this section, may  
4 elect to waive the payment provided by subsection (1) of this section.  
5 Upon such an election, a joint and one hundred percent survivor option  
6 under RCW 41.40.188, calculated under the retirement allowance  
7 described in RCW 41.40.185 or 41.40.190, whichever is greater,  
8 actuarially reduced by the amount of any lump sum benefit identified as  
9 owing to an obligee upon withdrawal of accumulated contributions  
10 pursuant to a court order filed under RCW 41.50.670 shall automatically  
11 be given effect as if selected for the benefit of the designated  
12 beneficiary. If the member is not then qualified for a service  
13 retirement allowance, such benefit shall be based upon the actuarial  
14 equivalent of the sum necessary to pay the accrued regular retirement  
15 allowance commencing when the deceased member would have first  
16 qualified for a service retirement allowance.

17 (3) Subsection (1) of this section, unless elected, shall not apply  
18 to any member who has applied for service retirement in RCW 41.40.180,  
19 as now or hereafter amended, and thereafter dies between the date of  
20 separation from service and the member's effective retirement date,  
21 where the member has selected a survivorship option under RCW  
22 41.40.188. In those cases the beneficiary named in the member's final  
23 application for service retirement may elect to receive either a cash  
24 refund, less any amount identified as owing to an obligee upon  
25 withdrawal of accumulated contributions pursuant to a court order filed  
26 under RCW 41.50.670, or monthly payments according to the option  
27 selected by the member.

28 (4) (~~For deaths occurring between July 1, 1995, and June 30, 1997,~~  
29 ~~if a member who:—(a) Has applied for nonduty disability under RCW~~  
30 ~~41.40.230; (b) has submitted adequate evidence to support a disability~~  
31 ~~determination; and (c) has selected a retirement under RCW 41.40.188,~~  
32 ~~dies before receiving the first retirement payment, the beneficiary~~  
33 ~~named in the member's final application for disability retirement may~~  
34 ~~elect to receive either a cash refund, less any amount identified as~~  
35 ~~owing to an obligee upon withdrawal of accumulated contributions~~  
36 ~~pursuant to a court order filed under RCW 41.50.670, or monthly~~  
37 ~~payments according to the option selected by the member)) If a member  
38 dies within sixty days following application for disability retirement~~

1 under RCW 41.40.230, the beneficiary named in the application may elect  
2 to receive the benefit provided by:

3 (a) This section; or

4 (b) RCW 41.40.235, according to the option chosen under RCW  
5 41.40.188 in the disability application.

6 NEW SECTION. Sec. 3. RCW 41.32.5305 is decodified.

7 NEW SECTION. Sec. 4. This act is necessary for the immediate  
8 preservation of the public peace, health, or safety, or support of the  
9 state government and its existing public institutions, and takes effect  
10 immediately.

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