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HOUSE BILL 1947

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By Representatives O'Brien, Ballasiotes, Lovick, Delvin, Kastama, Tokuda, Crouse, Sullivan, H. Sommers, Wood, Benson, Grant, Radcliff, Lambert, Schoesler, Kenney, Mastin and D. Sommers

Read first time 02/11/1999. Referred to Committee on Appropriations.

1 AN ACT Relating to the benefits of an ex spouse in the law  
2 enforcement officers' and fire fighters' retirement system; and  
3 amending RCW 41.26.160 and 41.26.162.

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

5 **Sec. 1.** RCW 41.26.160 and 1991 sp.s. c 11 s 5 are each amended to  
6 read as follows:

7 (1) In the event of the death of any member who is in active  
8 service, or who has vested under the provisions of RCW 41.26.090 with  
9 twenty or more service credit years of service, or who is on disability  
10 leave or retired, whether for disability or service, the surviving  
11 spouse shall become entitled to receive a monthly allowance equal to  
12 fifty percent of the final average salary at the date of death if  
13 active, or the amount of retirement allowance the vested member would  
14 have received at age fifty, or the amount of the retirement allowance  
15 such retired member was receiving at the time of death if retired for  
16 service or disability. The amount of this allowance will be increased  
17 five percent of final average salary for each child as defined in RCW  
18 41.26.030(7), as now or hereafter amended, subject to a maximum  
19 combined allowance of sixty percent of final average salary: PROVIDED,

1 That if the child or children is or are in the care of a legal  
2 guardian, payment of the increase attributable to each child will be  
3 made to the child's legal guardian or, in the absence of a legal  
4 guardian and if the member has created a trust for the benefit of the  
5 child or children, payment of the increase attributable to each child  
6 will be made to the trust.

7 (2) If at the time of the death of a vested member with twenty or  
8 more service credit years of service as provided in subsection (1) of  
9 this section or a member retired for service or disability, the  
10 surviving spouse has not been lawfully married to such member for one  
11 year prior to (~~retirement or separation from service if a vested~~  
12 ~~member~~) the member's death, the surviving spouse shall not be eligible  
13 to receive the benefits under this section: PROVIDED, That if a member  
14 dies as a result of a disability incurred in the line of duty, then if  
15 he or she was married at the time he or she was disabled, the surviving  
16 spouse shall be eligible to receive the benefits under this section.

17 (3) If there be no surviving spouse eligible to receive benefits at  
18 the time of such member's death, then the child or children of such  
19 member shall receive a monthly allowance equal to thirty percent of  
20 final average salary for one child and an additional ten percent for  
21 each additional child subject to a maximum combined payment, under this  
22 subsection, of sixty percent of final average salary. When there cease  
23 to be any eligible children as defined in RCW 41.26.030(7), as now or  
24 hereafter amended, there shall be paid to the legal heirs of said  
25 member the excess, if any, of accumulated contributions of said member  
26 at the time of death over all payments made to survivors on his or her  
27 behalf under this chapter: PROVIDED, That payments under this  
28 subsection to children shall be prorated equally among the children, if  
29 more than one. If the member has created a trust for the benefit of  
30 the child or children, the payment shall be made to the trust.

31 (4) In the event that there is no surviving spouse eligible to  
32 receive benefits under this section, and that there be no child or  
33 children eligible to receive benefits under this section, then the  
34 accumulated contributions shall be paid to the estate of said member.

35 (5) If a surviving spouse receiving benefits under the provisions  
36 of this section thereafter dies and there are children as defined in  
37 RCW 41.26.030(7), as now or hereafter amended, payment to the spouse  
38 shall cease and the child or children shall receive the benefits as  
39 provided in subsection (3) of this section.

1 (6) The payment provided by this section shall become due the day  
2 following the date of death and payments shall be retroactive to that  
3 date.

4 **Sec. 2.** RCW 41.26.162 and 1991 sp.s. c 12 s 2 are each amended to  
5 read as follows:

6 (1) An ex spouse of a law enforcement officers' and fire fighters'  
7 retirement system retiree shall qualify as surviving spouse under RCW  
8 41.26.160 if the ex spouse(~~(+~~

9 ~~(a))~~ has been provided benefits under any currently effective  
10 court decree of dissolution or legal separation or in any court order  
11 or court-approved property settlement agreement incident to any court  
12 decree of dissolution or legal separation (~~(entered after the member's~~  
13 ~~retirement and prior to December 31, 1979; and~~

14 ~~(b) Was married to the retiree for at least thirty years, including~~  
15 ~~at least twenty years prior to the member's retirement or separation~~  
16 ~~from service if a vested member)).~~

17 (2) If two or more persons are eligible for a surviving spouse  
18 benefit under this subsection, benefits shall be divided between the  
19 surviving spouses based on the percentage of total service credit the  
20 member accrued during each marriage.

21 (3) This section shall apply retroactively.

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