
SENATE BILL 5986

State of Washington 56th Legislature 1999 Regular Session

By Senators Goings, Benton, Bauer, Costa and Rasmussen

Read first time 02/18/1999. Referred to Committee on Ways & Means.

1 AN ACT Relating to duty connected death benefits under the law
2 enforcement officers' and fire fighters' retirement system, plan 1;
3 amending RCW 41.26.160; adding a new section to chapter 41.26 RCW;
4 creating new sections; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The purpose of sections 1 through 4 of this
7 act is to clarify that the intent of the legislature in enacting RCW
8 41.26.160, insofar as that section provides benefits to members or
9 surviving spouses for deaths incurred in the line of duty, was to
10 provide a statute in the nature of a workers' compensation act that
11 provides compensation to employees or surviving spouses for personal
12 injuries or deaths incurred in the course of employment. Accordingly,
13 this act amends and divides RCW 41.26.160 into two separate sections.
14 Section 2 of this act clarifies and emphasizes the legislature's intent
15 that the death benefits granted by RCW 41.26.160, as amended, are
16 granted only to those members who die or become disabled by any injury
17 or incapacity that is incurred in the line of duty. Section 3 of this
18 act continues to provide death retirement benefits to members or
19 surviving spouses for deaths not incurred in the line of duty.

1 **Sec. 2.** RCW 41.26.160 and 1991 sp.s. c 11 s 5 are each amended to
2 read as follows:

3 (1) In the event of the duty connected death of any member who is
4 in active service, or who has vested under the provisions of RCW
5 41.26.090 with twenty or more service credit years of service, or who
6 is on duty connected disability leave or retired(~~((, whether))~~) for duty
7 connected disability (~~((or service))~~), the surviving spouse shall become
8 entitled to receive a monthly allowance equal to fifty percent of the
9 final average salary at the date of death if active, or the amount of
10 retirement allowance the vested member would have received at age
11 fifty, or the amount of the retirement allowance such retired member
12 was receiving at the time of death if retired for (~~((service or))~~) duty
13 connected disability. The amount of this allowance will be increased
14 five percent of final average salary for each child as defined in RCW
15 41.26.030(7), (~~((as now or hereafter amended,))~~) subject to a maximum
16 combined allowance of sixty percent of final average salary: PROVIDED,
17 That if the child or children is or are in the care of a legal
18 guardian, payment of the increase attributable to each child will be
19 made to the child's legal guardian or, in the absence of a legal
20 guardian and if the member has created a trust for the benefit of the
21 child or children, payment of the increase attributable to each child
22 will be made to the trust.

23 (2) If at the time of the duty connected death of a vested member
24 with twenty or more service credit years of service as provided in
25 subsection (1) of this section or a member retired for (~~((service or))~~)
26 duty connected disability, the surviving spouse has not been lawfully
27 married to such member for one year prior to retirement or separation
28 from service if a vested member, the surviving spouse shall not be
29 eligible to receive the benefits under this section: PROVIDED, That if
30 a member dies as a result of a disability incurred in the line of duty,
31 then if he or she was married at the time he or she was disabled, the
32 surviving spouse shall be eligible to receive the benefits under this
33 section.

34 (3) If there be no surviving spouse eligible to receive benefits at
35 the time of such member's duty connected death, then the child or
36 children of such member shall receive a monthly allowance equal to
37 thirty percent of final average salary for one child and an additional
38 ten percent for each additional child subject to a maximum combined
39 payment, under this subsection, of sixty percent of final average

1 salary. When there cease to be any eligible children as defined in RCW
2 41.26.030(7), (~~as now or hereafter amended,~~) there shall be paid to
3 the legal heirs of (~~said~~) the member the excess, if any, of
4 accumulated contributions of (~~said~~) the member at the time of death
5 over all payments made to survivors on his or her behalf under this
6 chapter: PROVIDED, That payments under this subsection to children
7 shall be prorated equally among the children, if more than one. If the
8 member has created a trust for the benefit of the child or children,
9 the payment shall be made to the trust.

10 (4) In the event that there is no surviving spouse eligible to
11 receive benefits under this section, and that there be no child or
12 children eligible to receive benefits under this section, then the
13 accumulated contributions shall be paid to the estate of (~~said~~) the
14 member.

15 (5) If a surviving spouse receiving benefits under the provisions
16 of this section thereafter dies and there are children as defined in
17 RCW 41.26.030(7), (~~as now or hereafter amended,~~) payment to the
18 spouse shall cease and the child or children shall receive the benefits
19 as provided in subsection (3) of this section.

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

23 NEW SECTION. Sec. 3. A new section is added to chapter 41.26 RCW
24 under the subchapter heading "plan 1" to read as follows:

25 (1) In the event of the nonduty connected death of any member who
26 is in active service, or who has vested under the provisions of RCW
27 41.26.090 with twenty or more service credit years of service, or who
28 is on disability leave or retired, whether for nonduty connected
29 disability or service, the surviving spouse shall become entitled to
30 receive a monthly allowance equal to fifty percent of the final average
31 salary at the date of death if active, or the amount of retirement
32 allowance the vested member would have received at age fifty, or the
33 amount of the retirement allowance such retired member was receiving at
34 the time of death if retired for service or nonduty connected
35 disability. The amount of this allowance will be increased five
36 percent of final average salary for each child as defined in RCW
37 41.26.030(7), subject to a maximum combined allowance of sixty percent
38 of final average salary: PROVIDED, That if the child or children is or

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

6 (2) If at the time of the death of a vested member with twenty or
7 more service credit years of service as provided in subsection (1) of
8 this section or a member retired for service or disability, the
9 surviving spouse has not been lawfully married to such member for one
10 year prior to retirement or separation from service if a vested member,
11 the surviving spouse shall not be eligible to receive the benefits
12 under this section.

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

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

31 (5) If a surviving spouse receiving benefits under the provisions
32 of this section thereafter dies and there are children as defined in
33 RCW 41.26.030(7), payment to the spouse shall cease and the child or
34 children shall receive the benefits as provided in subsection (3) of
35 this section.

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

1 NEW SECTION. **Sec. 4.** The provisions of section 2 of this act
2 apply retrospectively to all line of duty death retirement allowances
3 granted under chapter 41.26 RCW prior to the effective date of this
4 act.

5 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately.

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