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HOUSE BILL 1432

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State of Washington

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2001 Regular Session

By Representatives Cooper, Delvin, O'Brien, Conway, Murray, Edmonds, Kenney, Campbell, Haigh, Keiser, Simpson, Wood, Santos, Rockefeller and Kessler

Read first time 01/25/2001. Referred to Committee on Appropriations.

1 AN ACT Relating to extending death benefits to certain surviving  
2 spouses under the law enforcement officers' and fire fighters'  
3 retirement system; and amending RCW 41.26.160 and 41.26.161.

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

5 **Sec. 1.** RCW 41.26.160 and 1999 c 134 s 2 are each amended to read  
6 as follows:

7 (1) In the event of the duty connected death of any member who is  
8 in active service, or who has vested under the provisions of RCW  
9 41.26.090 with twenty or more service credit years of service, or who  
10 is on duty connected disability leave or retired for duty connected  
11 disability, the surviving spouse shall become entitled to receive a  
12 monthly allowance equal to fifty percent of the final average salary at  
13 the date of death if active, or the amount of retirement allowance the  
14 vested member would have received at age fifty, or the amount of the  
15 retirement allowance such retired member was receiving at the time of  
16 death if retired for duty connected disability. The amount of this  
17 allowance will be increased five percent of final average salary for  
18 each child as defined in RCW 41.26.030(7), 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 duty connected death of a vested member  
8 with twenty or more service credit years of service as provided in  
9 subsection (1) of this section or a member retired for duty connected  
10 disability, the surviving spouse has not been lawfully married to such  
11 member for one year prior to retirement or separation from service if  
12 a vested member, the surviving spouse shall not be eligible to receive  
13 the benefits under this section. However, if the surviving spouse has  
14 been lawfully married to such member for five years prior to the  
15 member's death, the surviving spouse, when at least age fifty-five, is  
16 eligible to receive the benefits under this section: PROVIDED, That if  
17 a member dies as a result of a disability incurred in the line of duty,  
18 then if he or she was married at the time he or she was disabled, the  
19 surviving spouse shall be eligible to receive the benefits under this  
20 section.

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

35 (4) In the event that there is no surviving spouse eligible to  
36 receive benefits under this section, and that there be no child or  
37 children eligible to receive benefits under this section, then the  
38 accumulated contributions shall be paid to the estate of the member.

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

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

9 **Sec. 2.** RCW 41.26.161 and 1999 c 134 s 3 are each amended to read  
10 as follows:

11 (1) In the event of the nonduty connected death of any member who  
12 is in active service, or who has vested under the provisions of RCW  
13 41.26.090 with twenty or more service credit years of service, or who  
14 is on disability leave or retired, whether for nonduty connected  
15 disability or service, the surviving spouse shall become entitled to  
16 receive a monthly allowance equal to fifty percent of the final average  
17 salary at the date of death if active, or the amount of retirement  
18 allowance the vested member would have received at age fifty, or the  
19 amount of the retirement allowance such retired member was receiving at  
20 the time of death if retired for service or nonduty connected  
21 disability. The amount of this allowance will be increased five  
22 percent of final average salary for each child as defined in RCW  
23 41.26.030(7), subject to a maximum combined allowance of sixty percent  
24 of final average salary: PROVIDED, That if the child or children is or  
25 are in the care of a legal guardian, payment of the increase  
26 attributable to each child will be made to the child's legal guardian  
27 or, in the absence of a legal guardian and if the member has created a  
28 trust for the benefit of the child or children, payment of the increase  
29 attributable to each child will be made to the trust.

30 (2) If at the time of the death of a vested member with twenty or  
31 more service credit years of service as provided in subsection (1) of  
32 this section or a member retired for service or disability, the  
33 surviving spouse has not been lawfully married to such member for one  
34 year prior to retirement or separation from service if a vested member,  
35 the surviving spouse shall not be eligible to receive the benefits  
36 under this section. However, if the surviving spouse has been lawfully  
37 married to such member for five years prior to the member's death, the

1 surviving spouse, when at least age fifty-five, is eligible to receive  
2 the benefits under this section.

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

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

21 (5) If a surviving spouse receiving benefits under the provisions  
22 of this section thereafter dies and there are children as defined in  
23 RCW 41.26.030(7), payment to the spouse shall cease and the child or  
24 children shall receive the benefits as provided in subsection (3) of  
25 this section.

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

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