
HOUSE BILL 1715

State of Washington

58th Legislature

2003 Regular Session

By Representatives Cooper, Delvin, Kenney, Hinkle, O'Brien, Chase, Simpson, Conway, Pettigrew, Sullivan, Edwards and Berkey

Read first time 02/05/2003. 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 2002 c 158 s 1 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, subject to RCW
12 41.26.162(2), to receive a monthly allowance equal to fifty percent of
13 the final average salary at the date of death if active, or the amount
14 of retirement allowance the vested member would have received at age
15 fifty, or the amount of the retirement allowance such retired member
16 was receiving at the time of death if retired for duty connected
17 disability. The amount of this allowance will be increased five
18 percent of final average salary for each child as defined in RCW
19 41.26.030(7), subject to a maximum combined allowance of sixty percent

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

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

15 (b)(i) If the surviving spouse has been lawfully married to a
16 member under (a) of this subsection for five years prior to the
17 member's death, the surviving spouse, when at least age fifty-five, is
18 eligible to receive the benefits under this section.

19 (ii) If a member dies as a result of a disability incurred in the
20 line of duty, then if he or she was married at the time he or she was
21 disabled, the surviving spouse shall be eligible to receive the
22 benefits under this section.

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

37 (4) In the event that there is no surviving spouse eligible to

1 receive benefits under this section, and that there be no child or
2 children eligible to receive benefits under this section, then the
3 accumulated contributions shall be paid to the estate of the member.

4 (5) If a surviving spouse receiving benefits under this section
5 remarries after June 13, 2002, the surviving spouse shall continue to
6 receive the benefits under this section.

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

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

15 **Sec. 2.** RCW 41.26.161 and 2002 c 158 s 2 are each amended to read
16 as follows:

17 (1) In the event of the nonduty connected death of any member who
18 is in active service, or who has vested under the provisions of RCW
19 41.26.090 with twenty or more service credit years of service, or who
20 is on disability leave or retired, whether for nonduty connected
21 disability or service, the surviving spouse shall become entitled,
22 subject to RCW 41.26.162(2), to receive a monthly allowance equal to
23 fifty percent of the final average salary at the date of death if
24 active, or the amount of retirement allowance the vested member would
25 have received at age fifty, or the amount of the retirement allowance
26 such retired member was receiving at the time of death if retired for
27 service or nonduty connected disability. The amount of this allowance
28 will be increased five percent of final average salary for each child
29 as defined in RCW 41.26.030(7), subject to a maximum combined allowance
30 of sixty percent of final average salary: PROVIDED, That if the child
31 or children is or are in the care of a legal guardian, payment of the
32 increase attributable to each child will be made to the child's legal
33 guardian or, in the absence of a legal guardian and if the member has
34 created a trust for the benefit of the child or children, payment of
35 the increase attributable to each child will be made to the trust.

36 (2) If at the time of the death of a vested member with twenty or
37 more service credit years of service as provided in subsection (1) of

1 this section or a member retired for service or disability, the
2 surviving spouse has not been lawfully married to such member for one
3 year prior to retirement or separation from service if a vested member,
4 the surviving spouse shall not be eligible to receive the benefits
5 under this section. However, if the surviving spouse has been lawfully
6 married to such member for five years prior to the member's death, the
7 surviving spouse, when at least age fifty-five, is eligible to receive
8 the benefits under this section.

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

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

27 (5) If a surviving spouse receiving benefits under this section
28 remarries after June 13, 2002, the surviving spouse shall continue to
29 receive the benefits under this section.

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

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

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