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SENATE BILL 5788

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State of Washington

58th Legislature

2003 Regular Session

By Senators Roach, Prentice, Winsley, Keiser, Fairley, Rasmussen, Poulsen, Kline, Kohl-Welles and Shin

Read first time 02/12/2003. Referred to Committee on Ways & Means.

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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