
ENGROSSED SUBSTITUTE HOUSE BILL 1445

State of Washington

61st Legislature

2009 Regular Session

By House Ways & Means (originally sponsored by Representatives Simpson, O'Brien, Van De Wege, Goodman, Sullivan, Hunt, Ormsby, Conway, and Santos)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to domestic partners under the Washington state
2 patrol retirement system; amending RCW 43.43.120, 43.43.260, 43.43.270,
3 43.43.271, 43.43.278, 43.43.280, and 43.43.295; and reenacting and
4 amending RCW 43.43.285.

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

6 **Sec. 1.** RCW 43.43.120 and 2001 c 329 s 3 are each amended to read
7 as follows:

8 As used in (~~the following sections~~) RCW 43.43.120 through
9 43.43.320, unless a different meaning is plainly required by the
10 context:

11 (1) "Retirement system" means the Washington state patrol
12 retirement system.

13 (2) "Retirement fund" means the Washington state patrol retirement
14 fund.

15 (3) "State treasurer" means the treasurer of the state of
16 Washington.

17 (4) "Member" means any person included in the membership of the
18 retirement fund.

1 (5) "Employee" means any commissioned employee of the Washington
2 state patrol.

3 (6)(a) "Cadet," for a person who became a member of the retirement
4 system after June 12, 1980, is a person who has passed the Washington
5 state patrol's entry-level oral, written, physical performance, and
6 background examinations and is, thereby, appointed by the chief as a
7 candidate to be a commissioned officer of the Washington state patrol.

8 (b) "Cadet," for a person who became a member of the retirement
9 system before June 12, 1980, is a trooper cadet, patrol cadet, or
10 employee of like classification, employed for the express purpose of
11 receiving the on-the-job training required for attendance at the state
12 patrol academy and for becoming a commissioned trooper. "Like
13 classification" includes: Radio operators or dispatchers; persons
14 providing security for the governor or legislature; patrolmen; drivers'
15 license examiners; weighmasters; vehicle safety inspectors; central
16 wireless operators; and warehousemen.

17 (7) "Beneficiary" means any person in receipt of retirement
18 allowance or any other benefit allowed by this chapter.

19 (8) "Regular interest" means interest compounded annually at such
20 rates as may be determined by the director.

21 (9) "Retirement board" means the board provided for in this
22 chapter.

23 (10) "Insurance commissioner" means the insurance commissioner of
24 the state of Washington.

25 (11) "Lieutenant governor" means the lieutenant governor of the
26 state of Washington.

27 (12) "Service" shall mean services rendered to the state of
28 Washington or any political subdivisions thereof for which compensation
29 has been paid. Full time employment for seventy or more hours in any
30 given calendar month shall constitute one month of service. An
31 employee who is reinstated in accordance with RCW 43.43.110 shall
32 suffer no loss of service for the period reinstated subject to the
33 contribution requirements of this chapter. Only months of service
34 shall be counted in the computation of any retirement allowance or
35 other benefit provided for herein. Years of service shall be
36 determined by dividing the total number of months of service by twelve.
37 Any fraction of a year of service as so determined shall be taken into
38 account in the computation of such retirement allowance or benefit.

1 (13) "Prior service" shall mean all services rendered by a member
2 to the state of Washington, or any of its political subdivisions prior
3 to August 1, 1947, unless such service has been credited in another
4 public retirement or pension system operating in the state of
5 Washington.

6 (14) "Current service" shall mean all service as a member rendered
7 on or after August 1, 1947.

8 (15)(a) "Average final salary," for members commissioned prior to
9 January 1, 2003, shall mean the average monthly salary received by a
10 member during the member's last two years of service or any consecutive
11 two-year period of service, whichever is the greater, as an employee of
12 the Washington state patrol; or if the member has less than two years
13 of service, then the average monthly salary received by the member
14 during the member's total years of service.

15 (b) "Average final salary," for members commissioned on or after
16 January 1, 2003, shall mean the average monthly salary received by a
17 member for the highest consecutive sixty service credit months; or if
18 the member has less than sixty months of service, then the average
19 monthly salary received by the member during the member's total months
20 of service.

21 (16) "Actuarial equivalent" shall mean a benefit of equal value
22 when computed upon the basis of such mortality table as may be adopted
23 and such interest rate as may be determined by the director.

24 (17) Unless the context expressly indicates otherwise, words
25 importing the masculine gender shall be extended to include the
26 feminine gender and words importing the feminine gender shall be
27 extended to include the masculine gender.

28 (18) "Director" means the director of the department of retirement
29 systems.

30 (19) "Department" means the department of retirement systems
31 created in chapter 41.50 RCW.

32 (20) "State actuary" or "actuary" means the person appointed
33 pursuant to RCW 44.44.010(2).

34 (21) "Contributions" means the deduction from the compensation of
35 each member in accordance with the contribution rates established under
36 chapter 41.45 RCW.

37 (22) "Annual increase" means as of July 1, 1999, seventy-seven

1 cents per month per year of service which amount shall be increased
2 each subsequent July 1st by three percent, rounded to the nearest cent.

3 (23)(a) "Salary," for members commissioned prior to July 1, 2001,
4 shall exclude any overtime earnings related to RCW 47.46.040, or any
5 voluntary overtime, earned on or after July 1, 2001.

6 (b) "Salary," for members commissioned on or after July 1, 2001,
7 shall exclude any overtime earnings related to RCW 47.46.040 or any
8 voluntary overtime, lump sum payments for deferred annual sick leave,
9 unused accumulated vacation, unused accumulated annual leave, holiday
10 pay, or any form of severance pay.

11 (24) "Plan 2" means the Washington state patrol retirement system
12 plan 2, providing the benefits and funding provisions covering
13 commissioned employees who first become members of the system on or
14 after January 1, 2003.

15 (25) "Domestic partners" means two adults who have registered as
16 domestic partners under RCW 26.60.020.

17 **Sec. 2.** RCW 43.43.260 and 2005 c 64 s 10 are each amended to read
18 as follows:

19 Upon retirement from service as provided in RCW 43.43.250, a member
20 shall be granted a retirement allowance which shall consist of:

21 (1) A prior service allowance which shall be equal to two percent
22 of the member's average final salary multiplied by the number of years
23 of prior service rendered by the member.

24 (2) A current service allowance which shall be equal to two percent
25 of the member's average final salary multiplied by the number of years
26 of service rendered while a member of the retirement system.

27 (3)(a) Any member commissioned prior to January 1, 2003, with
28 twenty-five years service in the Washington state patrol may have the
29 member's service in the uniformed services credited as a member whether
30 or not the individual left the employ of the Washington state patrol to
31 enter such uniformed services: PROVIDED, That in no instance shall
32 military service in excess of five years be credited: AND PROVIDED
33 FURTHER, That in each instance, a member must restore all withdrawn
34 accumulated contributions, which restoration must be completed on the
35 date of the member's retirement, or as provided under RCW 43.43.130,
36 whichever occurs first: AND PROVIDED FURTHER, That this section shall

1 not apply to any individual, not a veteran within the meaning of RCW
2 41.06.150.

3 (b) A member who leaves the Washington state patrol to enter the
4 uniformed services of the United States shall be entitled to retirement
5 system service credit for up to five years of military service. This
6 subsection shall be administered in a manner consistent with the
7 requirements of the federal uniformed services employment and
8 reemployment rights act.

9 (i) The member qualifies for service credit under this subsection
10 if:

11 (A) Within ninety days of the member's honorable discharge from the
12 uniformed services of the United States, the member applies for
13 reemployment with the employer who employed the member immediately
14 prior to the member entering the uniformed services; and

15 (B) The member makes the employee contributions required under RCW
16 41.45.0631 and 41.45.067 within five years of resumption of service or
17 prior to retirement, whichever comes sooner; or

18 (C) Prior to retirement and not within ninety days of the member's
19 honorable discharge or five years of resumption of service the member
20 pays the amount required under RCW 41.50.165(2).

21 (ii) Upon receipt of member contributions under (b)(i)(B),
22 (b)(iv)(C), and (b)(v)(C) of this subsection, the department shall
23 establish the member's service credit and shall bill the employer for
24 its contribution required under RCW 41.45.060 for the period of
25 military service, plus interest as determined by the department.

26 (iii) The contributions required under (b)(i)(B), (b)(iv)(C), and
27 (b)(v)(C) of this subsection shall be based on the compensation the
28 member would have earned if not on leave, or if that cannot be
29 estimated with reasonable certainty, the compensation reported for the
30 member in the year prior to when the member went on military leave.

31 (iv) The surviving spouse or lawful domestic partner or eligible
32 child or children of a member who left the employ of an employer to
33 enter the uniformed services of the United States and died while
34 serving in the uniformed services may, on behalf of the deceased
35 member, apply for retirement system service credit under this
36 subsection up to the date of the member's death in the uniformed
37 services. The department shall establish the deceased member's service

1 credit if the surviving spouse or lawful domestic partner or eligible
2 child or children:

3 (A) Provides to the director proof of the member's death while
4 serving in the uniformed services;

5 (B) Provides to the director proof of the member's honorable
6 service in the uniformed services prior to the date of death; and

7 (C) If the member was commissioned on or after January 1, 2003,
8 pays the employee contributions required under chapter 41.45 RCW within
9 five years of the date of death or prior to the distribution of any
10 benefit, whichever comes first.

11 (v) A member who leaves the employ of an employer to enter the
12 uniformed services of the United States and becomes totally
13 incapacitated for continued employment by an employer while serving in
14 the uniformed services is entitled to retirement system service credit
15 under this subsection up to the date of discharge from the uniformed
16 services if:

17 (A) The member obtains a determination from the director that he or
18 she is totally incapacitated for continued employment due to conditions
19 or events that occurred while serving in the uniformed services;

20 (B) The member provides to the director proof of honorable
21 discharge from the uniformed services; and

22 (C) If the member was commissioned on or after January 1, 2003, the
23 member pays the employee contributions required under chapter 41.45 RCW
24 within five years of the director's determination of total disability
25 or prior to the distribution of any benefit, whichever comes first.

26 (4) In no event shall the total retirement benefits from
27 subsections (1), (2), and (3) of this section, of any member exceed
28 seventy-five percent of the member's average final salary.

29 (5) Beginning July 1, 2001, and every year thereafter, the
30 department shall determine the following information for each retired
31 member or beneficiary whose retirement allowance has been in effect for
32 at least one year:

33 (a) The original dollar amount of the retirement allowance;

34 (b) The index for the calendar year prior to the effective date of
35 the retirement allowance, to be known as "index A";

36 (c) The index for the calendar year prior to the date of
37 determination, to be known as "index B"; and

38 (d) The ratio obtained when index B is divided by index A.

1 The value of the ratio obtained shall be the annual adjustment to
2 the original retirement allowance and shall be applied beginning with
3 the July payment. In no event, however, shall the annual adjustment:

4 (i) Produce a retirement allowance which is lower than the original
5 retirement allowance;

6 (ii) Exceed three percent in the initial annual adjustment; or

7 (iii) Differ from the previous year's annual adjustment by more
8 than three percent.

9 For the purposes of this section, "index" means, for any calendar
10 year, that year's average consumer price index for the Seattle-Tacoma-
11 Bremerton Washington area for urban wage earners and clerical workers,
12 all items, compiled by the bureau of labor statistics, United States
13 department of labor.

14 The provisions of this section shall apply to all members presently
15 retired and to all members who shall retire in the future.

16 **Sec. 3.** RCW 43.43.270 and 2006 c 94 s 1 are each amended to read
17 as follows:

18 For members commissioned prior to January 1, 2003:

19 (1) The normal form of retirement allowance shall be an allowance
20 which shall continue as long as the member lives.

21 (2) If a member should die while in service the member's lawful
22 spouse or lawful domestic partner shall be paid an allowance which
23 shall be equal to fifty percent of the average final salary of the
24 member. If the member should die after retirement the member's lawful
25 spouse or lawful domestic partner shall be paid an allowance which
26 shall be equal to the retirement allowance then payable to the member
27 or fifty percent of the final average salary used in computing the
28 member's retirement allowance, whichever is less. The allowance paid
29 to the lawful spouse or lawful domestic partner shall continue as long
30 as the spouse or domestic partner lives: PROVIDED, That if a surviving
31 spouse or domestic partner who is receiving benefits under this
32 subsection marries, or enters into a domestic partnership with, another
33 member of this retirement system who subsequently predeceases such
34 spouse or domestic partner, the spouse or domestic partner shall then
35 be entitled to receive the higher of the two survivors' allowances for
36 which eligibility requirements were met, but a surviving spouse or
37 domestic partner shall not receive more than one survivor's allowance

1 from this system at the same time under this subsection. To be
2 eligible for an allowance the lawful surviving spouse or lawful
3 domestic partner of a retired member shall have been married to, or in
4 a domestic partnership with, the member prior to the member's
5 retirement and continuously thereafter until the date of the member's
6 death or shall have been married to, or in a domestic partnership with,
7 the retired member at least two years prior to the member's death. The
8 allowance paid to the lawful spouse or lawful domestic partner may be
9 divided with an ex spouse or ex domestic partner of the member by a
10 dissolution order as defined in RCW 41.50.500(3) incident to a
11 (~~divorce~~) dissolution occurring after July 1, 2002. The dissolution
12 order must specifically divide both the member's benefit and any
13 spousal or domestic partner survivor benefit, and must fully comply
14 with RCW 41.50.670 and 41.50.700.

15 (3) If a member should die, either while in service or after
16 retirement, the member's surviving unmarried children under the age of
17 eighteen years shall be provided for in the following manner:

18 (a) If there is a surviving spouse or domestic partner, each child
19 shall be entitled to a benefit equal to five percent of the final
20 average salary of the member or retired member. The combined benefits
21 to the surviving spouse or domestic partner and all children shall not
22 exceed sixty percent of the final average salary of the member or
23 retired member; and

24 (b) If there is no surviving spouse or domestic partner or the
25 spouse or domestic partner should die, the child or children shall be
26 entitled to a benefit equal to thirty percent of the final average
27 salary of the member or retired member for one child and an additional
28 ten percent for each additional child. The combined benefits to the
29 children under this subsection shall not exceed sixty percent of the
30 final average salary of the member or retired member. Payments under
31 this subsection shall be prorated equally among the children, if more
32 than one.

33 (4) If a member should die in the line of duty while employed by
34 the Washington state patrol, the member's surviving children under the
35 age of twenty years and eleven months if attending any high school,
36 college, university, or vocational or other educational institution
37 accredited or approved by the state of Washington shall be provided for
38 in the following manner:

1 (a) If there is a surviving spouse or domestic partner, each child
2 shall be entitled to a benefit equal to five percent of the final
3 average salary of the member. The combined benefits to the surviving
4 spouse or domestic partner and all children shall not exceed sixty
5 percent of the final average salary of the member;

6 (b) If there is no surviving spouse or domestic partner or the
7 spouse or domestic partner should die, the unmarried child or children
8 shall be entitled to receive a benefit equal to thirty percent of the
9 final average salary of the member or retired member for one child and
10 an additional ten percent for each additional child. The combined
11 benefits to the children under this subsection shall not exceed sixty
12 percent of the final average salary. Payments under this subsection
13 shall be prorated equally among the children, if more than one; and

14 (c) If a beneficiary under this subsection reaches the age of
15 twenty-one years during the middle of a term of enrollment the benefit
16 shall continue until the end of that term.

17 (5)(a) The provisions of this section shall apply to members who
18 have been retired on disability as provided in RCW 43.43.040 if the
19 officer was a member of the Washington state patrol retirement system
20 at the time of such disability retirement.

21 (b) For the purposes of this subsection, average final salary as
22 used in subsection (2) of this section means:

23 (i) For members commissioned prior to January 1, 2003, the average
24 monthly salary received by active members of the patrol of the rank at
25 which the member became disabled, during the two years prior to the
26 death of the disabled member; and

27 (ii) For members commissioned on or after January 1, 2003, the
28 average monthly salary received by active members of the patrol of the
29 rank at which the member became disabled, during the five years prior
30 to the death of the disabled member.

31 (c) The changes to the definitions of average final salary for the
32 survivors of disabled members in this subsection shall apply
33 retroactively. The department shall correct future payments to
34 eligible survivors of members disabled prior to June 7, 2006, and, as
35 soon as administratively practicable, pay each survivor a lump sum
36 payment reflecting the difference, as determined by the director,
37 between the survivor benefits previously received by the member, and

1 those the member would have received under the definitions of average
2 final salary created in chapter 94, Laws of 2006.

3 **Sec. 4.** RCW 43.43.271 and 2003 c 294 s 14 are each amended to read
4 as follows:

5 (1) A member commissioned on or after January 1, 2003, upon
6 retirement for service as prescribed in RCW 43.43.250 shall elect to
7 have the retirement allowance paid pursuant to the following options,
8 calculated so as to be actuarially equivalent to each other.

9 (a) Standard allowance. A member electing this option shall
10 receive a retirement allowance payable throughout the member's life.
11 However, if the retiree dies before the total of the retirement
12 allowance paid to the retiree equals the amount of the retiree's
13 accumulated contributions at the time of retirement, then the balance
14 shall be paid to the member's estate, or such person or persons, trust,
15 or organization as the retiree shall have nominated by written
16 designation duly executed and filed with the department; or if there be
17 no such designated person or persons still living at the time of the
18 retiree's death, then to the surviving spouse or domestic partner; or
19 if there be neither such designated person or persons still living at
20 the time of death nor a surviving spouse or domestic partner, then to
21 the retiree's legal representative.

22 (b) The department shall adopt rules that allow a member to select
23 a retirement option that pays the member a reduced retirement allowance
24 and upon death, such portion of the member's reduced retirement
25 allowance as the department by rule designates shall be continued
26 throughout the life of and paid to a designated person. Such person
27 shall be nominated by the member by written designation duly executed
28 and filed with the department at the time of retirement. The options
29 adopted by the department shall include, but are not limited to, a
30 joint and one hundred percent survivor option and a joint and fifty
31 percent survivor option.

32 (2)(a) A member, if married or in a domestic partnership, must
33 provide the written consent of his or her spouse or domestic partner to
34 the option selected under this section, except as provided in (b) of
35 this subsection. If a member is married or in a domestic partnership
36 and both the member and member's spouse or domestic partner do not give
37 written consent to an option under this section, the department will

1 pay the member a joint and fifty percent survivor benefit and record
2 the member's spouse or domestic partner as the beneficiary. This
3 benefit shall be calculated to be actuarially equivalent to the benefit
4 options available under subsection (1) of this section unless
5 (~~spousal~~) consent by the spouse or domestic partner is not required
6 as provided in (b) of this subsection.

7 (b) If a copy of a dissolution order designating a survivor
8 beneficiary under RCW 41.50.790 has been filed with the department at
9 least thirty days prior to a member's retirement:

10 (i) The department shall honor the designation as if made by the
11 member under subsection (1) of this section; and

12 (ii) The (~~spousal~~) spouse or domestic partner consent provisions
13 of (a) of this subsection do not apply.

14 (3) No later than January 1, 2003, the department shall adopt rules
15 that allow a member additional actuarially equivalent survivor benefit
16 options, and shall include, but are not limited to:

17 (a)(i) A retired member who retired without designating a survivor
18 beneficiary shall have the opportunity to designate their spouse or
19 domestic partner from a postretirement marriage or domestic partnership
20 as a survivor during a one-year period beginning one year after the
21 date of the postretirement marriage or domestic partnership provided
22 the retirement allowance payable to the retiree is not subject to
23 periodic payments pursuant to a property division obligation as
24 provided for in RCW 41.50.670.

25 (ii) A member who entered into a postretirement marriage or
26 domestic partnership prior to the effective date of the rules adopted
27 pursuant to this subsection and satisfies the conditions of (a)(i) of
28 this subsection shall have one year to designate their spouse or
29 domestic partner as a survivor beneficiary following the adoption of
30 the rules.

31 (b) A retired member who elected to receive a reduced retirement
32 allowance under this section and designated a nonspouse or a
33 nondomestic partner as survivor beneficiary shall have the opportunity
34 to remove the survivor designation and have their future benefit
35 adjusted.

36 (c) The department may make an additional charge, if necessary, to
37 ensure that the benefits provided under this subsection remain
38 actuarially equivalent.

1 (4) No later than July 1, 2003, the department shall adopt rules to
2 permit:

3 (a) A court-approved property settlement incident to a court decree
4 of dissolution made before retirement to provide that benefits payable
5 to a member who has completed at least five years of service and the
6 member's divorcing spouse or former domestic partner be divided into
7 two separate benefits payable over the life of each spouse or domestic
8 partner.

9 The member shall have available the benefit options of subsection
10 (1) of this section upon retirement, and if remarried or in a domestic
11 partnership at the time of retirement remains subject to the
12 (~~spouse~~) spouse or domestic partner consent requirements of
13 subsection (2) of this section. Any reductions of the member's benefit
14 subsequent to the division into two separate benefits shall be made
15 solely to the separate benefit of the member.

16 The nonmember ex spouse or former domestic partner shall be
17 eligible to commence receiving their separate benefit upon reaching the
18 ages provided in RCW 43.43.250(2) and after filing a written
19 application with the department.

20 (b) A court-approved property settlement incident to a court decree
21 of dissolution made after retirement may only divide the benefit into
22 two separate benefits payable over the life of each spouse or domestic
23 partner if the nonmember ex spouse or former domestic partner was
24 selected as a survivor beneficiary at retirement.

25 The retired member may later choose the survivor benefit options
26 available in subsection (3) of this section. Any actuarial reductions
27 subsequent to the division into two separate benefits shall be made
28 solely to the separate benefit of the member.

29 Both the retired member and the nonmember divorced spouse or former
30 domestic partner shall be eligible to commence receiving their separate
31 benefits upon filing a copy of the dissolution order with the
32 department in accordance with RCW 41.50.670.

33 (c) The department may make an additional charge or adjustment if
34 necessary to ensure that the separate benefits provided under this
35 subsection are actuarially equivalent to the benefits payable prior to
36 the decree of dissolution.

1 **Sec. 5.** RCW 43.43.278 and 2001 c 329 s 9 are each amended to read
2 as follows:

3 By July 1, 2000, the department of retirement systems shall adopt
4 rules that allow a member to select an actuarially equivalent
5 retirement option that pays the member a reduced retirement allowance
6 and upon death shall be continued throughout the life of a lawful
7 surviving spouse or lawful domestic partner. The continuing allowance
8 to the lawful surviving spouse or lawful domestic partner shall be
9 subject to the yearly increase provided by RCW 43.43.260(5). The
10 allowance to the lawful surviving spouse or lawful domestic partner
11 under this section, and the allowance for an eligible child or children
12 under RCW 43.43.270, shall not be subject to the limit for combined
13 benefits under RCW 43.43.270.

14 **Sec. 6.** RCW 43.43.280 and 1994 c 197 s 35 are each amended to read
15 as follows:

16 (1) If a member dies before retirement, and has no surviving spouse
17 or domestic partner or children under the age of eighteen years, all
18 contributions made by the member, including any amount paid under RCW
19 41.50.165(2), with interest as determined by the director, less any
20 amount identified as owing to an obligee upon withdrawal of accumulated
21 contributions pursuant to a court order filed under RCW 41.50.670,
22 shall be paid to such person or persons as the member shall have
23 nominated by written designation duly executed and filed with the
24 department, or if there be no such designated person or persons, then
25 to the member's legal representative.

26 (2) If a member should cease to be an employee before attaining age
27 sixty for reasons other than the member's death, or retirement, the
28 individual shall thereupon cease to be a member except as provided
29 under RCW 43.43.130 (2) (~~and~~), (3), and (4) and, the individual may
30 withdraw the member's contributions to the retirement fund, including
31 any amount paid under RCW 41.50.165(2), with interest as determined by
32 the director, by making application therefor to the department, except
33 that: A member who ceases to be an employee after having completed at
34 least five years of service shall remain a member during the period of
35 the member's absence from employment for the exclusive purpose only of
36 receiving a retirement allowance to begin at attainment of age sixty,
37 however such a member may upon written notice to the department elect

1 to receive a reduced retirement allowance on or after age fifty-five
2 which allowance shall be the actuarial equivalent of the sum necessary
3 to pay regular retirement benefits as of age sixty: PROVIDED, That if
4 such member should withdraw all or part of the member's accumulated
5 contributions, the individual shall thereupon cease to be a member and
6 this subsection shall not apply.

7 **Sec. 7.** RCW 43.43.285 and 2007 c 488 s 1 and 2007 c 487 s 9 are
8 each reenacted and amended to read as follows:

9 (1) A one hundred fifty thousand dollar death benefit shall be paid
10 to the member's estate, or such person or persons, trust or
11 organization as the member shall have nominated by written designation
12 duly executed and filed with the department. If there be no such
13 designated person or persons still living at the time of the member's
14 death, such member's death benefit shall be paid to the member's
15 surviving spouse or domestic partner as if in fact such spouse or
16 domestic partner had been nominated by written designation, or if there
17 be no such surviving spouse or domestic partner, then to such member's
18 legal representatives.

19 (2)(a) The benefit under this section shall be paid only where
20 death occurs as a result of (i) injuries sustained in the course of
21 employment; or (ii) an occupational disease or infection that arises
22 naturally and proximately out of employment covered under this chapter.
23 The determination of eligibility for the benefit shall be made
24 consistent with Title 51 RCW by the department of labor and industries.
25 The department of labor and industries shall notify the department of
26 retirement systems by order under RCW 51.52.050.

27 (b) The retirement allowance paid to the spouse or domestic partner
28 and dependent children of a member who is killed in the course of
29 employment, as set forth in RCW 41.05.011(14), shall include
30 reimbursement for any payments of premium rates to the Washington state
31 health care authority under RCW 41.05.080.

32 **Sec. 8.** RCW 43.43.295 and 2004 c 171 s 1 are each amended to read
33 as follows:

34 (1) For members commissioned on or after January 1, 2003, except as
35 provided in RCW 11.07.010, if a member or a vested member who has not
36 completed at least ten years of service dies, the amount of the

1 accumulated contributions standing to such member's credit in the
2 retirement system at the time of such member's death, less any amount
3 identified as owing to an obligee upon withdrawal of accumulated
4 contributions pursuant to a court order filed under RCW 41.50.670,
5 shall be paid to the member's estate, or such person or persons, trust,
6 or organization as the member shall have nominated by written
7 designation duly executed and filed with the department. If there be
8 no such designated person or persons still living at the time of the
9 member's death, such member's accumulated contributions standing to
10 such member's credit in the retirement system, less any amount
11 identified as owing to an obligee upon withdrawal of accumulated
12 contributions pursuant to a court order filed under RCW 41.50.670,
13 shall be paid to the member's surviving spouse or domestic partner as
14 if in fact such spouse or domestic partner had been nominated by
15 written designation, or if there be no such surviving spouse or
16 domestic partner, then to such member's legal representatives.

17 (2) If a member who is eligible for retirement or a member who has
18 completed at least ten years of service dies, the surviving spouse or
19 domestic partner or eligible child or children shall elect to receive
20 either:

21 (a) A retirement allowance computed as provided for in RCW
22 43.43.260, actuarially reduced, except under subsection (4) of this
23 section, by the amount of any lump sum benefit identified as owing to
24 an obligee upon withdrawal of accumulated contributions pursuant to a
25 court order filed under RCW 41.50.670 and actuarially adjusted to
26 reflect a joint and one hundred percent survivor option under RCW
27 43.43.278 and if the member was not eligible for normal retirement at
28 the date of death a further reduction from age fifty-five or when the
29 member could have attained twenty-five years of service, whichever is
30 less; if a surviving spouse or domestic partner who is receiving a
31 retirement allowance dies leaving a child or children of the member
32 under the age of majority, then such child or children shall continue
33 to receive an allowance in an amount equal to that which was being
34 received by the surviving spouse or domestic partner, share and share
35 alike, until such child or children reach the age of majority; if there
36 is no surviving spouse or domestic partner eligible to receive an
37 allowance at the time of the member's death, such member's child or
38 children under the age of majority shall receive an allowance share and

1 share alike calculated under this section making the assumption that
2 the ages of the spouse or domestic partner and member were equal at the
3 time of the member's death; or

4 (b)(i) The member's accumulated contributions, less any amount
5 identified as owing to an obligee upon withdrawal of accumulated
6 contributions pursuant to a court order filed under RCW 41.50.670; or

7 (ii) If the member dies, one hundred fifty percent of the member's
8 accumulated contributions, less any amount identified as owing to an
9 obligee upon withdrawal of accumulated contributions pursuant to a
10 court order filed under RCW 41.50.670. Any accumulated contributions
11 attributable to restorations made under RCW 41.50.165(2) shall be
12 refunded at one hundred percent.

13 (3) If a member who is eligible for retirement or a member who has
14 completed at least ten years of service dies, and is not survived by a
15 spouse or domestic partner or an eligible child, then the accumulated
16 contributions standing to the member's credit, less any amount
17 identified as owing to an obligee upon withdrawal of accumulated
18 contributions pursuant to a court order filed under RCW 41.50.670,
19 shall be paid:

20 (a) To an estate, a person or persons, trust, or organization as
21 the member shall have nominated by written designation duly executed
22 and filed with the department; or

23 (b) If there is no such designated person or persons still living
24 at the time of the member's death, then to the member's legal
25 representatives.

26 (4) The retirement allowance of a member who is killed in the
27 course of employment, as determined by the director of the department
28 of labor and industries, is not subject to an actuarial reduction.

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