
SENATE BILL 5312

State of Washington

61st Legislature

2009 Regular Session

By Senators Delvin, Schoesler, Fraser, and Kohl-Welles; by request of Select Committee on Pension Policy and LEOFF Plan 2 Retirement Board

Read first time 01/20/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to increasing the duty-related death benefit for
2 public employees; amending RCW 41.04.017, 41.24.160, 41.26.048,
3 41.32.053, 41.35.115, 41.37.110, 41.40.0931, and 41.40.0932; reenacting
4 and amending RCW 43.43.285; and declaring an emergency.

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

6 **Sec. 1.** RCW 41.04.017 and 2007 c 487 s 1 are each amended to read
7 as follows:

8 A one hundred (~~fifty~~) seventy-five thousand dollar death benefit
9 shall be paid as a sundry claim to the estate of an employee of any
10 state agency, the common school system of the state, or institution of
11 higher education who dies as a result of (1) injuries sustained in the
12 course of employment; or (2) an occupational disease or infection that
13 arises naturally and proximately out of employment covered under this
14 chapter, and is not otherwise provided a death benefit through coverage
15 under their enrolled retirement system under chapter 402, Laws of 2003.
16 The determination of eligibility for the benefit shall be made
17 consistent with Title 51 RCW by the department of labor and industries.
18 The department of labor and industries shall notify the director of the
19 department of general administration by order under RCW 51.52.050.

1 **Sec. 2.** RCW 41.24.160 and 2001 c 134 s 2 are each amended to read
2 as follows:

3 (1)(a) Whenever a participant dies as the result of injuries
4 received, or sickness contracted in consequence or as the result of the
5 performance of his or her duties, the board of trustees shall order and
6 direct the payment from the principal fund of (i) the sum of one
7 hundred (~~(fifty-two)~~) seventy-seven thousand dollars to his widow or
8 her widower, or if there is no widow or widower, then to his or her
9 dependent child or children, or if there is no dependent child or
10 children, then to his or her dependent parents or either of them, or if
11 there are no dependent parents or parent, then the death benefit shall
12 be paid to the member's estate, and (ii)(A) the sum of one thousand two
13 hundred seventy-five dollars per month to his widow or her widower
14 during his or her life together with the additional monthly sum of one
15 hundred ten dollars for each child of the member, unemancipated or
16 under eighteen years of age, dependent upon the member for support at
17 the time of his or her death, (B) to a maximum total of two thousand
18 five hundred fifty dollars per month.

19 (b) Beginning on July 1, 2001, and each July 1st thereafter, the
20 compensation amount specified in (a)(ii)(B) of this subsection shall be
21 readjusted to reflect the percentage change in the consumer price
22 index, calculated as follows: The index for the calendar year
23 preceding the year in which the July calculation is made, to be known
24 as "calendar year A," is divided by the index for the calendar year
25 preceding calendar year A, and the resulting ratio is multiplied by the
26 compensation amount in effect on June 30th immediately preceding the
27 July 1st on which the respective calculation is made. For the purposes
28 of this subsection, "index" means the same as the definition in RCW
29 2.12.037(1).

30 (2) If the widow or widower does not have legal custody of one or
31 more dependent children of the deceased participant or if, after the
32 death of the participant, legal custody of such child or children
33 passes from the widow or widower to another person, any payment on
34 account of such child or children not in the legal custody of the widow
35 or widower shall be made to the person or persons having legal custody
36 of such child or children. Such payments on account of such child or
37 children shall be subtracted from the amount to which such widow or
38 widower would have been entitled had such widow or widower had legal

1 custody of all the children and the widow or widower shall receive the
2 remainder after such payments on account of such child or children have
3 been subtracted. If there is no widow or widower, or the widow or
4 widower dies while there are children, unemancipated or under eighteen
5 years of age, then the amount of one thousand two hundred seventy-five
6 dollars per month shall be paid for the youngest or only child together
7 with an additional one hundred ten dollars per month for each
8 additional of such children to a maximum of two thousand five hundred
9 fifty dollars per month until they become emancipated or reach the age
10 of eighteen years; and if there are no widow or widower, child, or
11 children entitled thereto, then to his or her parents or either of them
12 the sum of one thousand two hundred seventy-five dollars per month for
13 life, if it is proved to the satisfaction of the board that the
14 parents, or either of them, were dependent on the deceased for their
15 support at the time of his or her death. In any instance in
16 subsections (1) and (2) of this section, if the widow or widower, child
17 or children, or the parents, or either of them, marries while receiving
18 such pension the person so marrying shall thereafter receive no further
19 pension from the fund.

20 (3) In the case provided for in this section, the monthly payment
21 provided may be converted in whole or in part into a lump sum payment,
22 not in any case to exceed twelve thousand dollars, equal or
23 proportionate, as the case may be, to the actuarial equivalent of the
24 monthly payment in which event the monthly payments shall cease in
25 whole or in part accordingly or proportionately. Such conversion may
26 be made either upon written application to the state board and shall
27 rest in the discretion of the state board; or the state board is
28 authorized to make, and authority is given it to make, on its own
29 motion, lump sum payments, equal or proportionate, as the case may be,
30 to the value of the annuity then remaining in full satisfaction of
31 claims due to dependents. Within the rule under this subsection the
32 amount and value of the lump sum payment may be agreed upon between the
33 applicant and the state board.

34 **Sec. 3.** RCW 41.26.048 and 2007 c 487 s 2 are each amended to read
35 as follows:

36 (1) A one hundred (~~fifty~~) seventy-five thousand dollar death
37 benefit shall be paid to the member's estate, or such person or

1 persons, trust or organization as the member shall have nominated by
2 written designation duly executed and filed with the department. If
3 there be no such designated person or persons still living at the time
4 of the member's death, such member's death benefit shall be paid to the
5 member's surviving spouse as if in fact such spouse had been nominated
6 by written designation, or if there be no such surviving spouse, then
7 to such member's legal representatives.

8 (2) The benefit under this section shall be paid only when death
9 occurs: (a) As a result of injuries sustained in the course of
10 employment; or (b) as a result of an occupational disease or infection
11 that arises naturally and proximately out of employment covered under
12 this chapter. The determination of eligibility for the benefit shall
13 be made consistent with Title 51 RCW by the department of labor and
14 industries. The department of labor and industries shall notify the
15 department of retirement systems by order under RCW 51.52.050.

16 **Sec. 4.** RCW 41.32.053 and 2007 c 487 s 3 are each amended to read
17 as follows:

18 (1) A one hundred (~~(fifty)~~) seventy-five thousand dollar death
19 benefit shall be paid to the member's estate, or such person or
20 persons, trust or organization as the member has nominated by written
21 designation duly executed and filed with the department. If no such
22 designated person or persons are still living at the time of the
23 member's death, the member's death benefit shall be paid to the
24 member's surviving spouse as if in fact the spouse had been nominated
25 by written designation, or if there is no surviving spouse, then to the
26 member's legal representatives.

27 (2) The benefit under this section shall be paid only where death
28 occurs as a result of (a) injuries sustained in the course of
29 employment; or (b) an occupational disease or infection that arises
30 naturally and proximately out of employment covered under this chapter.
31 The determination of eligibility for the benefit shall be made
32 consistent with Title 51 RCW by the department of labor and industries.
33 The department of labor and industries shall notify the department of
34 retirement systems by order under RCW 51.52.050.

35 **Sec. 5.** RCW 41.35.115 and 2007 c 487 s 4 are each amended to read
36 as follows:

1 (1) A one hundred (~~fifty~~) seventy-five thousand dollar death
2 benefit shall be paid to the member's estate, or such person or
3 persons, trust or organization as the member has nominated by written
4 designation duly executed and filed with the department. If no such
5 designated person or persons are still living at the time of the
6 member's death, the member's death benefit shall be paid to the
7 member's surviving spouse as if in fact the spouse had been nominated
8 by written designation, or if there is no surviving spouse, then to the
9 member's legal representatives.

10 (2) The benefit under this section shall be paid only where death
11 occurs as a result of (a) injuries sustained in the course of
12 employment; or (b) an occupational disease or infection that arises
13 naturally and proximately out of employment covered under this chapter.
14 The determination of eligibility for the benefit shall be made
15 consistent with Title 51 RCW by the department of labor and industries.
16 The department of labor and industries shall notify the department of
17 retirement systems by order under RCW 51.52.050.

18 **Sec. 6.** RCW 41.37.110 and 2007 c 487 s 5 are each amended to read
19 as follows:

20 (1) A one hundred (~~fifty~~) seventy-five thousand dollar death
21 benefit shall be paid to the member's estate, or the person or persons,
22 trust, or organization the member has nominated by written designation
23 duly executed and filed with the department. If the designated person
24 or persons are not still living at the time of the member's death, the
25 member's death benefit shall be paid to the member's surviving spouse
26 as if in fact the spouse had been nominated by written designation, or
27 if there is no surviving spouse, then to the member's legal
28 representatives.

29 (2) The benefit under this section shall be paid only where death
30 occurs as a result of (a) injuries sustained in the course of
31 employment; or (b) an occupational disease or infection that arises
32 naturally and proximately out of employment covered under this chapter.
33 The determination of eligibility for the benefit shall be made
34 consistent with Title 51 RCW by the department of labor and industries.
35 The department of labor and industries shall notify the department of
36 retirement systems by order under RCW 51.52.050.

1 **Sec. 7.** RCW 41.40.0931 and 2007 c 487 s 6 are each amended to read
2 as follows:

3 (1) A one hundred (~~(fifty)~~) seventy-five thousand dollar death
4 benefit for members who had the opportunity to transfer to the law
5 enforcement officers' and firefighters' retirement system pursuant to
6 chapter 502, Laws of 1993, but elected to remain in the public
7 employees' retirement system, shall be paid to the member's estate, or
8 such person or persons, trust, or organization as the member has
9 nominated by written designation duly executed and filed with the
10 department. If there is no designated person or persons still living
11 at the time of the member's death, the member's death benefit shall be
12 paid to the member's surviving spouse as if in fact the spouse had been
13 nominated by written designation, or if there is no surviving spouse,
14 then to the member's legal representatives.

15 (2) Subject to subsection (3) of this section, the benefit under
16 this section shall be paid only where death occurs as a result of (a)
17 injuries sustained in the course of employment as a general authority
18 police officer; or (b) an occupational disease or infection that arises
19 naturally and proximately out of employment covered under this chapter.
20 The determination of eligibility for the benefit shall be made
21 consistent with Title 51 RCW by the department of labor and industries.
22 The department of labor and industries shall notify the department of
23 retirement systems by order under RCW 51.52.050.

24 (3) The benefit under this section shall not be paid in the event
25 the member was in the act of committing a felony when the fatal
26 injuries were suffered.

27 **Sec. 8.** RCW 41.40.0932 and 2007 c 487 s 7 are each amended to read
28 as follows:

29 (1) A one hundred (~~(fifty)~~) seventy-five thousand dollar death
30 benefit shall be paid to the member's estate, or such person or
31 persons, trust or organization as the member has nominated by written
32 designation duly executed and filed with the department. If no such
33 designated person or persons are still living at the time of the
34 member's death, the member's death benefit shall be paid to the
35 member's surviving spouse as if in fact the spouse had been nominated
36 by written designation, or if there is no surviving spouse, then to the
37 member's legal representatives.

1 (2) The benefit under this section shall be paid only where death
2 occurs as a result of (a) injuries sustained in the course of
3 employment; or (b) an occupational disease or infection that arises
4 naturally and proximately out of employment covered under this chapter.
5 The determination of eligibility for the benefit shall be made
6 consistent with Title 51 RCW by the department of labor and industries.
7 The department of labor and industries shall notify the department of
8 retirement systems by order under RCW 51.52.050.

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

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

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

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

33 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 immediately.

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