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**SUBSTITUTE HOUSE BILL 1444**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** House Labor & Workforce Development (originally sponsored by Representatives Kirby, Hope, Upthegrove, Liias, Maxwell, Stanford, Reykdal, Orwall, Sullivan, Sells, Hurst, Fitzgibbon, Kelley, and Ormsby; by request of Law Enforcement Officers and Fire Fighters' Plan 2 Retirement Board)

READ FIRST TIME 02/04/11.

1       AN ACT Relating to the benefits of a surviving spouse of a member  
2 of the law enforcement officers' and firefighters' retirement system or  
3 Washington state patrol retirement system; and amending RCW 51.32.050.

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

5       **Sec. 1.** RCW 51.32.050 and 2010 c 261 s 3 are each amended to read  
6 as follows:

7       (1) Where death results from the injury the expenses of burial not  
8 to exceed two hundred percent of the average monthly wage in the state  
9 as defined in RCW 51.08.018 shall be paid.

10       (2)(a) Where death results from the injury, a surviving spouse of  
11 a deceased worker eligible for benefits under this title shall receive  
12 monthly for life or until remarriage payments according to the  
13 following schedule:

14       (i) If there are no children of the deceased worker, sixty percent  
15 of the wages of the deceased worker;

16       (ii) If there is one child of the deceased worker and in the legal  
17 custody of such spouse, sixty-two percent of the wages of the deceased  
18 worker;

1 (iii) If there are two children of the deceased worker and in the  
2 legal custody of such spouse, sixty-four percent of the wages of the  
3 deceased worker;

4 (iv) If there are three children of the deceased worker and in the  
5 legal custody of such spouse, sixty-six percent of the wages of the  
6 deceased worker;

7 (v) If there are four children of the deceased worker and in the  
8 legal custody of such spouse, sixty-eight percent of the wages of the  
9 deceased worker; or

10 (vi) If there are five or more children of the deceased worker and  
11 in the legal custody of such spouse, seventy percent of the wages of  
12 the deceased worker.

13 (b) A surviving spouse of a member of the law enforcement officers'  
14 and firefighters' retirement system under chapter 41.26 RCW, or the  
15 state patrol retirement system under chapter 43.43 RCW, who is entitled  
16 to benefits under this section must continue to receive benefits under  
17 this section monthly for life. Such a surviving spouse is not eligible  
18 to receive a lump sum payment under (g) of this subsection.

19 (c) Where the surviving spouse does not have legal custody of any  
20 child or children of the deceased worker or where after the death of  
21 the worker legal custody of such child or children passes from such  
22 surviving spouse to another, any payment on account of such child or  
23 children not in the legal custody of the surviving spouse shall be made  
24 to the person or persons having legal custody of such child or  
25 children. The amount of such payments shall be five percent of the  
26 monthly benefits payable as a result of the worker's death for each  
27 such child but such payments shall not exceed twenty-five percent.  
28 Such payments on account of such child or children shall be subtracted  
29 from the amount to which such surviving spouse would have been entitled  
30 had such surviving spouse had legal custody of all of the children and  
31 the surviving spouse shall receive the remainder after such payments on  
32 account of such child or children have been subtracted. Such payments  
33 on account of a child or children not in the legal custody of such  
34 surviving spouse shall be apportioned equally among such children.

35 ((+)) (d) Except as provided in (b) of this subsection, payments  
36 to the surviving spouse of the deceased worker shall cease at the end  
37 of the month in which remarriage occurs: PROVIDED, That a monthly  
38 payment shall be made to the child or children of the deceased worker

1 from the month following such remarriage in a sum equal to five percent  
2 of the wages of the deceased worker for one child and a sum equal to  
3 five percent for each additional child up to a maximum of five such  
4 children. Payments to such child or children shall be apportioned  
5 equally among such children. Such sum shall be in place of any  
6 payments theretofore made for the benefit of or on account of any such  
7 child or children. If the surviving spouse does not have legal custody  
8 of any child or children of the deceased worker, or if after the death  
9 of the worker, legal custody of such child or children passes from such  
10 surviving spouse to another, any payment on account of such child or  
11 children not in the legal custody of the surviving spouse shall be made  
12 to the person or persons having legal custody of such child or  
13 children.

14 ~~((d))~~ (e) In no event shall the monthly payments provided in this  
15 subsection (2) ~~((of this section))~~:

16 (i) Exceed the applicable percentage of the average monthly wage in  
17 the state as computed under RCW 51.08.018 as follows:

18	AFTER	PERCENTAGE
19	June 30, 1993	105%
20	June 30, 1994	110%
21	June 30, 1995	115%
22	June 30, 1996	120%

23 (ii) For dates of injury or disease manifestation after July 1,  
24 2008, be less than fifteen percent of the average monthly wage in the  
25 state as computed under RCW 51.08.018 plus an additional ten dollars  
26 per month for a surviving spouse and an additional ten dollars per  
27 month for each child of the worker up to a maximum of five children.  
28 However, if the monthly payment computed under this subsection  
29 (2)~~((d))~~ (e)(ii) is greater than one hundred percent of the wages of  
30 the deceased worker as determined under RCW 51.08.178, the monthly  
31 payment due to the surviving spouse shall be equal to the greater of  
32 the monthly wages of the deceased worker or the minimum benefit set  
33 forth in this section on June 30, 2008.

34 ~~((e))~~ (f) In addition to the monthly payments provided for in  
35 ~~((subsection (2))~~(a) through ~~((e))~~ (d) of this subsection, a

1 surviving spouse or child or children of such worker if there is no  
2 surviving spouse, or dependent parent or parents, if there is no  
3 surviving spouse or child or children of any such deceased worker shall  
4 be forthwith paid a sum equal to one hundred percent of the average  
5 monthly wage in the state as defined in RCW 51.08.018, any such  
6 children, or parents to share and share alike in said sum.

7 ~~((f))~~ (g) Upon remarriage of a surviving spouse the monthly  
8 payments for the child or children shall continue as provided in this  
9 section, but the monthly payments to such surviving spouse, other than  
10 a surviving spouse described in (b) of this subsection, shall cease at  
11 the end of the month during which remarriage occurs. However, after  
12 September 8, 1975, an otherwise eligible surviving spouse of a worker  
13 who died at any time prior to or after September 8, 1975, shall have an  
14 option of:

15 (i)(A) Receiving, once and for all, a lump sum of twenty-four times  
16 the monthly compensation rate in effect on the date of remarriage  
17 allocable to the spouse for himself or herself pursuant to ~~((subsection~~  
18 ~~+2))~~(a)(i) of this subsection and subject to any modifications  
19 specified under ~~((subsection+2)(d))~~ (e) of this subsection and RCW  
20 51.32.075(3) or fifty percent of the then remaining annuity value of  
21 his or her pension, whichever is the lesser: PROVIDED, That if the  
22 injury occurred prior to July 28, 1991, the remarriage benefit lump sum  
23 available shall be as provided in the remarriage benefit schedules then  
24 in effect;

25 (B) If a surviving spouse is the surviving spouse of a member of  
26 the law enforcement officers' and firefighters' retirement system under  
27 chapter 41.26 RCW or the state patrol retirement system under chapter  
28 43.43 RCW, the surviving spouse may receive a lump sum of thirty-six  
29 times the monthly compensation rate in effect on the date of remarriage  
30 allocable to the spouse for himself or herself pursuant to ~~((subsection~~  
31 ~~+2))~~(a)(i) of this subsection and RCW 51.32.075(3) or fifty percent of  
32 the remaining annuity value of his or her pension provided under this  
33 chapter, whichever is the lesser: PROVIDED, That if the injury  
34 occurred prior to July 28, 1991, the lump sum benefit shall be as  
35 provided in the remarriage benefit schedules then in effect; or

36 (ii) If a surviving spouse does not choose the option specified in  
37 ~~((subsection+2)(f))~~ (g)(i) of this subsection to accept the lump sum  
38 payment, the remarriage of the surviving spouse of a worker shall not

1 bar him or her from claiming the lump sum payment authorized in  
2 (~~(subsection (2)(f))~~) (g)(i) of this subsection during the life of the  
3 remarriage, or shall not prevent subsequent monthly payments to him or  
4 to her if the remarriage has been terminated by death or has been  
5 dissolved or annulled by valid court decree provided he or she has not  
6 previously accepted the lump sum payment.

7 ((g)) (h) If the surviving spouse during the remarriage should  
8 die without having previously received the lump sum payment provided in  
9 (~~(subsection (2)(f))~~) (g)(i) of this subsection, his or her estate  
10 shall be entitled to receive the sum specified under (~~(subsection~~  
11 ~~(2)(f))~~) (g)(i) of this subsection or fifty percent of the then  
12 remaining annuity value of his or her pension whichever is the lesser.

13 ((h)) (i) The effective date of resumption of payments under  
14 (~~(subsection (2)(f))~~) (g)(ii) of this subsection to a surviving spouse  
15 based upon termination of a remarriage by death, annulment, or  
16 dissolution shall be the date of the death or the date the judicial  
17 decree of annulment or dissolution becomes final and when application  
18 for the payments has been received.

19 ((i)) (j) If it should be necessary to increase the reserves in  
20 the reserve fund or to create a new pension reserve fund as a result of  
21 the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the  
22 amount of such increase in pension reserve in any such case shall be  
23 transferred to the reserve fund from the supplemental pension fund.

24 (k) After the effective date of this section, the monthly payments  
25 to such surviving spouse of a member of the law enforcement officers'  
26 and firefighters' retirement system under chapter 41.26 RCW, or the  
27 state patrol retirement system under chapter 43.43 RCW, shall resume  
28 regardless of remarriage. However, the monthly payments to any spouse  
29 who received a lump sum payment under (g) of this subsection shall be  
30 actuarially reduced to reflect the amount of the lump sum payment.

31 (3) If there is a child or children and no surviving spouse of the  
32 deceased worker or the surviving spouse is not eligible for benefits  
33 under this title, a sum equal to thirty-five percent of the wages of  
34 the deceased worker shall be paid monthly for one child and a sum  
35 equivalent to fifteen percent of such wage shall be paid monthly for  
36 each additional child, the total of such sum to be divided among such  
37 children, share and share alike: PROVIDED, That benefits under this  
38 subsection or subsection (4) of this section shall not exceed the

1 lesser of sixty-five percent of the wages of the deceased worker at the  
2 time of his or her death or the applicable percentage of the average  
3 monthly wage in the state as defined in RCW 51.08.018, as follows:

4	AFTER	PERCENTAGE
5	June 30, 1993	105%
6	June 30, 1994	110%
7	June 30, 1995	115%
8	June 30, 1996	120%

9 (4) In the event a surviving spouse receiving monthly payments  
10 dies, the child or children of the deceased worker shall receive the  
11 same payment as provided in subsection (3) of this section.

12 (5) If the worker leaves no surviving spouse or child, but leaves  
13 a dependent or dependents, a monthly payment shall be made to each  
14 dependent equal to fifty percent of the average monthly support  
15 actually received by such dependent from the worker during the twelve  
16 months next preceding the occurrence of the injury, but the total  
17 payment to all dependents in any case shall not exceed the lesser of  
18 sixty-five percent of the wages of the deceased worker at the time of  
19 his or her death or the applicable percentage of the average monthly  
20 wage in the state as defined in RCW 51.08.018 as follows:

21	AFTER	PERCENTAGE
22	June 30, 1993	105%
23	June 30, 1994	110%
24	June 30, 1995	115%
25	June 30, 1996	120%

26 If any dependent is under the age of eighteen years at the time of  
27 the occurrence of the injury, the payment to such dependent shall cease  
28 when such dependent reaches the age of eighteen years except such  
29 payments shall continue until the dependent reaches age twenty-three  
30 while permanently enrolled at a full time course in an accredited  
31 school. The payment to any dependent shall cease if and when, under

1 the same circumstances, the necessity creating the dependency would  
2 have ceased if the injury had not happened.

3 (6) For claims filed prior to July 1, 1986, if the injured worker  
4 dies during the period of permanent total disability, whatever the  
5 cause of death, leaving a surviving spouse, or child, or children, the  
6 surviving spouse or child or children shall receive benefits as if  
7 death resulted from the injury as provided in subsections (2) through  
8 (4) of this section. Upon remarriage or death of such surviving  
9 spouse, the payments to such child or children shall be made as  
10 provided in subsection (2) of this section when the surviving spouse of  
11 a deceased worker remarries.

12 (7) For claims filed on or after July 1, 1986, every worker who  
13 becomes eligible for permanent total disability benefits shall elect an  
14 option as provided in RCW 51.32.067.

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