
SENATE BILL 5535

State of Washington

58th Legislature

2003 Regular Session

By Senators West, Winsley, Fraser, Jacobsen, Haugen, Brown, Fairley, Roach, Hale, Eide, Schmidt, Stevens, Rasmussen and Kohl-Welles

Read first time 01/29/2003. Referred to Committee on Ways & Means.

1 AN ACT Relating to death benefits for members of the teachers'
2 retirement system, school employees' retirement system, and public
3 employees' retirement system; amending RCW 41.32.520, 41.32.805,
4 41.32.895, 41.35.460, 41.35.710, 41.40.270, 41.40.700, and 41.40.835;
5 and creating a new section.

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

7 **Sec. 1.** RCW 41.32.520 and 1997 c 73 s 1 are each amended to read
8 as follows:

9 (1) Except as specified in subsection (3) of this section, upon
10 receipt of proper proofs of death of any member before retirement or
11 before the first installment of his or her retirement allowance shall
12 become due his or her accumulated contributions, less any amount
13 identified as owing to an obligee upon withdrawal of accumulated
14 contributions pursuant to a court order filed under RCW 41.50.670,
15 and/or other benefits payable upon his or her death shall be paid to
16 his or her estate or to such persons, trust, or organization as he or
17 she shall have nominated by written designation duly executed and filed
18 with the department. If a member fails to file a new beneficiary
19 designation subsequent to marriage, divorce, or reestablishment of

1 membership following termination by withdrawal, lapsation, or
2 retirement, payment of his or her accumulated contributions, less any
3 amount identified as owing to an obligee upon withdrawal of accumulated
4 contributions pursuant to a court order filed under RCW 41.50.670,
5 and/or other benefits upon death before retirement shall be made to the
6 surviving spouse, if any; otherwise, to his or her estate. If a member
7 had established ten or more years of Washington membership service
8 credit or was eligible for retirement, the beneficiary or the surviving
9 spouse if otherwise eligible may elect, in lieu of a cash refund of the
10 member's accumulated contributions, the following survivor benefit plan
11 actuarially reduced, except under subsection (4) of this section, by
12 the amount of any lump sum benefit identified as owing to an obligee
13 upon withdrawal of accumulated contributions pursuant to a court order
14 filed under RCW 41.50.670:

15 (a) A widow or widower, without a child or children under eighteen
16 years of age, may elect a monthly payment of fifty dollars to become
17 effective at age fifty, provided the member had fifteen or more years
18 of Washington membership service credit. A benefit paid under this
19 subsection (1)(a) shall terminate at the marriage of the beneficiary.

20 (b) The beneficiary, if a surviving spouse or a dependent (as that
21 term is used in computing the dependent exemption for federal internal
22 revenue purposes) may elect to receive a joint and one hundred percent
23 retirement allowance under RCW 41.32.530.

24 (i) In the case of a dependent child the allowance shall continue
25 until attainment of majority or so long as the department judges that
26 the circumstances which created his or her dependent status continue to
27 exist. In any case, if at the time dependent status ceases, an amount
28 equal to the amount of accumulated contributions of the deceased member
29 has not been paid to the beneficiary, the remainder shall then be paid
30 in a lump sum to the beneficiary.

31 (ii) If at the time of death, the member was not then qualified for
32 a service retirement allowance, the benefit shall be based upon the
33 actuarial equivalent of the sum necessary to pay the accrued regular
34 retirement allowance commencing when the deceased member would have
35 first qualified for a service retirement allowance.

36 (2) If no qualified beneficiary survives a member, at his or her
37 death his or her accumulated contributions, less any amount identified
38 as owing to an obligee upon withdrawal of accumulated contributions

1 pursuant to a court order filed under RCW 41.50.670, shall be paid to
2 his or her estate, or his or her dependents may qualify for survivor
3 benefits under benefit plan (1)(b) in lieu of a cash refund of the
4 members accumulated contributions in the following order: Widow or
5 widower, guardian of a dependent child or children under age eighteen,
6 or dependent parent or parents.

7 (3) If a member dies within sixty days following application for
8 disability retirement under RCW 41.32.550, the beneficiary named in the
9 application may elect to receive the benefit provided by:

10 (a) This section; or

11 (b) RCW 41.32.550, according to the option chosen under RCW
12 41.32.530 in the disability application.

13 (4) The retirement allowance of a member who is killed in the
14 course of employment, as determined by the director of the department
15 of labor and industries, is not subject to an actuarial reduction. The
16 member's retirement allowance is computed under RCW 41.32.480.

17 **Sec. 2.** RCW 41.32.805 and 2000 c 247 s 1002 are each amended to
18 read as follows:

19 (1) Except as provided in RCW 11.07.010, if a member or a vested
20 member who has not completed at least ten years of service dies, the
21 amount of the accumulated contributions standing to such member's
22 credit in the retirement system, less any amount identified as owing to
23 an obligee upon withdrawal of accumulated contributions pursuant to a
24 court order filed under RCW 41.50.670, at the time of such member's
25 death shall be paid to the member's estate, or such person or persons,
26 trust, or organization as the member shall have nominated by written
27 designation duly executed and filed with the department. If there be
28 no such designated person or persons still living at the time of the
29 member's death, such member's accumulated contributions standing to
30 such member's credit in the retirement system, less any amount
31 identified as owing to an obligee upon withdrawal of accumulated
32 contributions pursuant to a court order filed under RCW 41.50.670,
33 shall be paid to the member's surviving spouse as if in fact such
34 spouse had been nominated by written designation, or if there be no
35 such surviving spouse, then to such member's legal representatives.

36 (2) If a member who is eligible for retirement or a member who has

1 completed at least ten years of service dies, the surviving spouse or
2 eligible children shall elect to receive either:

3 (a) A retirement allowance computed as provided for in RCW
4 41.32.765, actuarially reduced by the amount of any lump sum benefit
5 identified as owing to an obligee upon withdrawal of accumulated
6 contributions pursuant to a court order filed under RCW 41.50.670 and
7 actuarially adjusted to reflect a joint and one hundred percent
8 survivor option under RCW 41.32.785 and, except under subsection (4) of
9 this section, if the member was not eligible for normal retirement at
10 the date of death a further reduction as described in RCW 41.32.765; if
11 a surviving spouse who is receiving a retirement allowance dies leaving
12 a child or children of the member under the age of majority, then such
13 child or children shall continue to receive an allowance in an amount
14 equal to that which was being received by the surviving spouse, share
15 and share alike, until such child or children reach the age of
16 majority; if there is no surviving spouse eligible to receive an
17 allowance at the time of the member's death, such member's child or
18 children under the age of majority shall receive an allowance share and
19 share alike calculated as herein provided making the assumption that
20 the ages of the spouse and member were equal at the time of the
21 member's death; or

22 (b) The member's accumulated contributions, less any amount
23 identified as owing to an obligee upon withdrawal of accumulated
24 contributions pursuant to a court order filed under RCW 41.50.670.

25 (3) If a member who is eligible for retirement or a member who has
26 completed at least ten years of service dies after October 1, 1977, and
27 is not survived by a spouse or an eligible child, then the accumulated
28 contributions standing to the member's credit, less any amount
29 identified as owing to an obligee upon withdrawal of accumulated
30 contributions pursuant to a court order filed under RCW 41.50.670,
31 shall be paid:

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

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

1 (4) A member who is killed in the course of employment, as
2 determined by the director of the department of labor and industries,
3 is not subject to an actuarial reduction under RCW 41.32.765. The
4 member's retirement allowance is computed under RCW 41.32.760.

5 **Sec. 3.** RCW 41.32.895 and 2000 c 247 s 1003 are each amended to
6 read as follows:

7 (1) If a member dies prior to retirement, the surviving spouse or
8 eligible child or children shall receive a retirement allowance
9 computed as provided in RCW 41.32.851 actuarially reduced to reflect a
10 joint and one hundred percent survivor option and, except under
11 subsection (2) of this section, if the member was not eligible for
12 normal retirement at the date of death a further reduction as described
13 in RCW 41.32.875.

14 If the surviving spouse who is receiving the retirement allowance
15 dies leaving a child or children under the age of majority, then such
16 child or children shall continue to receive an allowance in an amount
17 equal to that which was being received by the surviving spouse, share
18 and share alike, until such child or children reach the age of
19 majority.

20 If there is no surviving spouse eligible to receive an allowance at
21 the time of the member's death, such member's child or children under
22 the age of majority shall receive an allowance, share and share alike.
23 The allowance shall be calculated with the assumption that the age of
24 the spouse and member were equal at the time of the member's death.

25 (2) A member who is killed in the course of employment, as
26 determined by the director of the department of labor and industries,
27 is not subject to an actuarial reduction under RCW 41.32.875. The
28 member's retirement allowance is computed under RCW 41.32.840.

29 **Sec. 4.** RCW 41.35.460 and 1998 c 341 s 107 are each amended to
30 read as follows:

31 (1) Except as provided in RCW 11.07.010, if a member or a vested
32 member who has not completed at least ten years of service dies, the
33 amount of the accumulated contributions standing to such member's
34 credit in the retirement system at the time of such member's death,
35 less any amount identified as owing to an obligee upon withdrawal of
36 accumulated contributions pursuant to a court order filed under RCW

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

12 (2) If a member who is eligible for retirement or a member who has
13 completed at least ten years of service dies, the surviving spouse or
14 eligible child or children shall elect to receive either:

15 (a) A retirement allowance computed as provided for in RCW
16 41.35.420, actuarially reduced by the amount of any lump sum benefit
17 identified as owing to an obligee upon withdrawal of accumulated
18 contributions pursuant to a court order filed under RCW 41.50.670 and
19 actuarially adjusted to reflect a joint and one hundred percent
20 survivor option under RCW 41.35.220 and, except under subsection (4) of
21 this section, if the member was not eligible for normal retirement at
22 the date of death a further reduction as described in RCW 41.35.420; if
23 a surviving spouse who is receiving a retirement allowance dies leaving
24 a child or children of the member under the age of majority, then such
25 child or children shall continue to receive an allowance in an amount
26 equal to that which was being received by the surviving spouse, share
27 and share alike, until such child or children reach the age of
28 majority; if there is no surviving spouse eligible to receive an
29 allowance at the time of the member's death, such member's child or
30 children under the age of majority shall receive an allowance, share
31 and share alike, calculated as herein provided making the assumption
32 that the ages of the spouse and member were equal at the time of the
33 member's death; or

34 (b) The member's accumulated contributions, less any amount
35 identified as owing to an obligee upon withdrawal of accumulated
36 contributions pursuant to a court order filed under RCW 41.50.670.

37 (3) If a member who is eligible for retirement or a member who has
38 completed at least ten years of service dies and is not survived by a

1 spouse or an eligible child, then the accumulated contributions
2 standing to the member's credit, less any amount identified as owing to
3 an obligee upon withdrawal of accumulated contributions pursuant to a
4 court order filed under RCW 41.50.670, shall be paid:

5 (a) To a person or persons, estate, trust, or organization as the
6 member shall have nominated by written designation duly executed and
7 filed with the department; or

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

11 (4) A member who is killed in the course of employment, as
12 determined by the director of the department of labor and industries,
13 is not subject to an actuarial reduction under RCW 41.35.420. The
14 member's retirement allowance is computed under RCW 41.35.400.

15 **Sec. 5.** RCW 41.35.710 and 1998 c 341 s 212 are each amended to
16 read as follows:

17 (1) If a member dies prior to retirement, the surviving spouse or
18 eligible child or children shall receive a retirement allowance
19 computed as provided in RCW 41.35.620 actuarially reduced to reflect a
20 joint and one hundred percent survivor option and, except under
21 subsection (2) of this section, if the member was not eligible for
22 normal retirement at the date of death a further reduction as described
23 in RCW 41.35.680.

24 If the surviving spouse who is receiving the retirement allowance
25 dies leaving a child or children under the age of majority, then such
26 child or children shall continue to receive an allowance in an amount
27 equal to that which was being received by the surviving spouse, share
28 and share alike, until such child or children reach the age of
29 majority.

30 If there is no surviving spouse eligible to receive an allowance at
31 the time of the member's death, such member's child or children under
32 the age of majority shall receive an allowance, share and share alike.
33 The allowance shall be calculated with the assumption that the age of
34 the spouse and member were equal at the time of the member's death.

35 (2) A member who is killed in the course of employment, as
36 determined by the director of the department of labor and industries,

1 is not subject to an actuarial reduction under RCW 41.35.680. The
2 member's retirement allowance is computed under RCW 41.35.620.

3 **Sec. 6.** RCW 41.40.270 and 1997 c 73 s 2 are each amended to read
4 as follows:

5 (1) Except as specified in subsection (4) of this section, should
6 a member die before the date of retirement the amount of the
7 accumulated contributions standing to the member's credit in the
8 employees' savings fund, 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, at the time of death:

11 (a) Shall be paid to the member's estate, or such person or
12 persons, trust, or organization as the member shall have nominated by
13 written designation duly executed and filed with the department; or

14 (b) If there be no such designated person or persons still living
15 at the time of the member's death, or if a member fails to file a new
16 beneficiary designation subsequent to marriage, remarriage, dissolution
17 of marriage, divorce, or reestablishment of membership following
18 termination by withdrawal or retirement, such accumulated
19 contributions, less any amount identified as owing to an obligee upon
20 withdrawal of accumulated contributions pursuant to a court order filed
21 under RCW 41.50.670, shall be paid to the surviving spouse as if in
22 fact such spouse had been nominated by written designation as
23 aforesaid, or if there be no such surviving spouse, then to the
24 member's legal representatives.

25 (2) Upon the death in service, or while on authorized leave of
26 absence for a period not to exceed one hundred and twenty days from the
27 date of payroll separation, of any member who is qualified but has not
28 applied for a service retirement allowance or has completed ten years
29 of service at the time of death, the designated beneficiary, or the
30 surviving spouse as provided in subsection (1) of this section, may
31 elect to waive the payment provided by subsection (1) of this section.
32 Upon such an election, a joint and one hundred percent survivor option
33 under RCW 41.40.188, calculated under the retirement allowance
34 described in RCW 41.40.185 or 41.40.190, whichever is greater,
35 actuarially reduced, except under subsection (5) of this section, by
36 the amount of any lump sum benefit identified as owing to an obligee
37 upon withdrawal of accumulated contributions pursuant to a court order

1 filed under RCW 41.50.670 shall automatically be given effect as if
2 selected for the benefit of the designated beneficiary. If the member
3 is not then qualified for a service retirement allowance, such benefit
4 shall be based upon the actuarial equivalent of the sum necessary to
5 pay the accrued regular retirement allowance commencing when the
6 deceased member would have first qualified for a service retirement
7 allowance.

8 (3) Subsection (1) of this section, unless elected, shall not apply
9 to any member who has applied for service retirement in RCW 41.40.180,
10 as now or hereafter amended, and thereafter dies between the date of
11 separation from service and the member's effective retirement date,
12 where the member has selected a survivorship option under RCW
13 41.40.188. In those cases the beneficiary named in the member's final
14 application for service retirement may elect to receive either a cash
15 refund, less any amount identified as owing to an obligee upon
16 withdrawal of accumulated contributions pursuant to a court order filed
17 under RCW 41.50.670, or monthly payments according to the option
18 selected by the member.

19 (4) If a member dies within sixty days following application for
20 disability retirement under RCW 41.40.230, the beneficiary named in the
21 application may elect to receive the benefit provided by:

- 22 (a) This section; or
- 23 (b) RCW 41.40.235, according to the option chosen under RCW
24 41.40.188 in the disability application.

25 (5) The retirement allowance of a member who is killed in the
26 course of employment, as determined by the director of the department
27 of labor and industries, is not subject to an actuarial reduction. The
28 member's retirement allowance is computed under RCW 41.40.185.

29 **Sec. 7.** RCW 41.40.700 and 2000 c 247 s 1004 are each amended to
30 read as follows:

31 (1) Except as provided in RCW 11.07.010, if a member or a vested
32 member who has not completed at least ten years of service dies, the
33 amount of the accumulated contributions standing to such member's
34 credit in the retirement system at the time of such member's death,
35 less any amount identified as owing to an obligee upon withdrawal of
36 accumulated contributions pursuant to a court order filed under RCW
37 41.50.670, 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 accumulated contributions standing
5 to such member's credit in the retirement system, less any amount
6 identified as owing to an obligee upon withdrawal of accumulated
7 contributions pursuant to a court order filed under RCW 41.50.670,
8 shall be paid to the member's surviving spouse as if in fact such
9 spouse had been nominated by written designation, or if there be no
10 such surviving spouse, then to such member's legal representatives.

11 (2) If a member who is eligible for retirement or a member who has
12 completed at least ten years of service dies, the surviving spouse or
13 eligible child or children shall elect to receive either:

14 (a) A retirement allowance computed as provided for in RCW
15 41.40.630, actuarially reduced by the amount of any lump sum benefit
16 identified as owing to an obligee upon withdrawal of accumulated
17 contributions pursuant to a court order filed under RCW 41.50.670 and
18 actuarially adjusted to reflect a joint and one hundred percent
19 survivor option under RCW 41.40.660 and, except under subsection (4) of
20 this section, if the member was not eligible for normal retirement at
21 the date of death a further reduction as described in RCW 41.40.630; if
22 a surviving spouse who is receiving a retirement allowance dies leaving
23 a child or children of the member under the age of majority, then such
24 child or children shall continue to receive an allowance in an amount
25 equal to that which was being received by the surviving spouse, share
26 and share alike, until such child or children reach the age of
27 majority; if there is no surviving spouse eligible to receive an
28 allowance at the time of the member's death, such member's child or
29 children under the age of majority shall receive an allowance share and
30 share alike calculated as herein provided making the assumption that
31 the ages of the spouse and member were equal at the time of the
32 member's death; or

33 (b) The member's accumulated contributions, less any amount
34 identified as owing to an obligee upon withdrawal of accumulated
35 contributions pursuant to a court order filed under RCW 41.50.670.

36 (3) If a member who is eligible for retirement or a member who has
37 completed at least ten years of service dies after October 1, 1977, and
38 is not survived by a spouse or an eligible child, then the accumulated

1 contributions standing to the member's credit, less any amount
2 identified as owing to an obligee upon withdrawal of accumulated
3 contributions pursuant to a court order filed under RCW 41.50.670,
4 shall be paid:

5 (a) To a person or persons, estate, trust, or organization as the
6 member shall have nominated by written designation duly executed and
7 filed with the department; or

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

11 (4) A member who is killed in the course of employment, as
12 determined by the director of the department of labor and industries,
13 is not subject to an actuarial reduction under RCW 41.40.630. The
14 member's retirement allowance is computed under RCW 41.40.620.

15 **Sec. 8.** RCW 41.40.835 and 2000 c 247 s 312 are each amended to
16 read as follows:

17 (1) If a member dies prior to retirement, the surviving spouse or
18 eligible child or children shall receive a retirement allowance
19 computed as provided in RCW 41.40.790 actuarially reduced to reflect a
20 joint and one hundred percent survivor option and, except under
21 subsection (2) of this section, if the member was not eligible for
22 normal retirement at the date of death a further reduction as described
23 in RCW 41.40.820.

24 If the surviving spouse who is receiving the retirement allowance
25 dies leaving a child or children under the age of majority, then such
26 child or children shall continue to receive an allowance in an amount
27 equal to that which was being received by the surviving spouse, share
28 and share alike, until such child or children reach the age of
29 majority.

30 If there is no surviving spouse eligible to receive an allowance at
31 the time of the member's death, such member's child or children under
32 the age of majority shall receive an allowance, share and share alike.
33 The allowance shall be calculated with the assumption that the age of
34 the spouse and member were equal at the time of the member's death.

35 (2) A member who is killed in the course of employment, as
36 determined by the director of the department of labor and industries,

1 is not subject to an actuarial reduction under RCW 41.40.820. The
2 member's retirement allowance is computed under RCW 41.40.790.

3 NEW SECTION. **Sec. 9.** This act applies to any member killed in the
4 course of employment, as determined by the director of the department
5 of labor and industries, on or after July 1, 2001.

--- END ---