
HOUSE BILL 1194

State of Washington

64th Legislature

2015 Regular Session

By Representatives Kirby, Holy, Van De Wege, Hayes, Stokesbary, Fitzgibbon, and Bergquist; by request of LEOFF Plan 2 Retirement Board

Read first time 01/15/15. Referred to Committee on Labor.

1 AN ACT Relating to the death benefits of a surviving spouse of a
2 member of the law enforcement officers' and firefighters' retirement
3 system or the state patrol retirement system; and amending RCW
4 51.32.050.

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

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

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

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

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

17 (ii) If there is one child of the deceased worker and in the
18 legal custody of such spouse, sixty-two percent of the wages of the
19 deceased 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
5 the legal custody of such spouse, sixty-six percent of the wages of
6 the 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
11 and in the legal custody of such spouse, seventy percent of the wages
12 of the deceased worker.

13 (b) A surviving spouse of a member of the law enforcement
14 officers' and firefighters' retirement system under chapter 41.26 RCW
15 or the state patrol retirement system under chapter 43.43 RCW who is
16 entitled to benefits under this section must continue to receive
17 benefits under this section monthly for life. Such surviving spouse
18 shall not be eligible to receive a lump sum payment under (g) of this
19 subsection. After the effective date of this section the monthly
20 payments to any such surviving spouse that have been suspended under
21 (d) or (g) of this subsection shall resume. However, the monthly
22 payments to any spouse who received a lump sum payment under (g) of
23 this subsection shall be actuarially reduced to reflect the amount of
24 the lump sum payment.

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

1 the legal custody of such surviving spouse shall be apportioned
2 equally among such children.

3 ~~((e))~~ (d) Except as provided in (b) of this subsection,
4 payments to the surviving spouse of the deceased worker shall cease
5 at the end of the month in which remarriage occurs: PROVIDED, That a
6 monthly payment shall be made to the child or children of the
7 deceased worker from the month following such remarriage in a sum
8 equal to five percent of the wages of the deceased worker for one
9 child and a sum equal to five percent for each additional child up to
10 a maximum of five such children. Payments to such child or children
11 shall be apportioned equally among such children. Such sum shall be
12 in place of any payments theretofore made for the benefit of or on
13 account of any such child or children. If the surviving spouse does
14 not have legal custody of any child or children of the deceased
15 worker, or if after the death of the worker, legal custody of such
16 child or children passes from such surviving spouse to another, any
17 payment on account of such child or children not in the legal custody
18 of the surviving spouse shall be made to the person or persons having
19 legal custody of such child or children.

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

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

24	AFTER	PERCENTAGE
25	June 30, 1993	105%
26	June 30, 1994	110%
27	June 30, 1995	115%
28	June 30, 1996	120%

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

1 the monthly wages of the deceased worker or the minimum benefit set
2 forth in this section on June 30, 2008.

3 ~~((e))~~ (f) In addition to the monthly payments provided for in
4 ~~((subsection—(2))~~(a) through ~~((e))~~ (d) of this ~~((section))~~
5 subsection, a surviving spouse or child or children of such worker if
6 there is no surviving spouse, or dependent parent or parents, if
7 there is no surviving spouse or child or children of any such
8 deceased worker shall be forthwith paid a sum equal to one hundred
9 percent of the average monthly wage in the state as defined in RCW
10 51.08.018, any such children, or parents to share and share alike in
11 said sum.

12 ~~((f))~~ (g) Upon remarriage of a surviving spouse the monthly
13 payments for the child or children shall continue as provided in this
14 section, but, except as provided in (b) of this subsection, the
15 monthly payments to such surviving spouse shall cease at the end of
16 the month during which remarriage occurs. However, after September 8,
17 1975, an otherwise eligible surviving spouse of a worker who died at
18 any time prior to or after September 8, 1975, shall have an option
19 of:

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

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

1 (ii) If a surviving spouse does not choose the option specified
2 in (~~(subsection—(2)(f))~~) (g)(i) of this (~~(section)~~) subsection to
3 accept the lump sum payment, the remarriage of the surviving spouse
4 of a worker shall not bar him or her from claiming the lump sum
5 payment authorized in (~~(subsection—(2)(f))~~) (g)(i) of this
6 (~~(section)~~) subsection during the life of the remarriage, or shall
7 not prevent subsequent monthly payments to him or to her if the
8 remarriage has been terminated by death or has been dissolved or
9 annulled by valid court decree provided he or she has not previously
10 accepted the lump sum payment.

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

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

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

29 (3) If there is a child or children and no surviving spouse of
30 the deceased worker or the surviving spouse is not eligible for
31 benefits under this title, a sum equal to thirty-five percent of the
32 wages of the deceased worker shall be paid monthly for one child and
33 a sum equivalent to fifteen percent of such wage shall be paid
34 monthly for each additional child, the total of such sum to be
35 divided among such children, share and share alike: PROVIDED, That
36 benefits under this subsection or subsection (4) of this section
37 shall not exceed the lesser of sixty-five percent of the wages of the
38 deceased worker at the time of his or her death or the applicable
39 percentage of the average monthly wage in the state as defined in RCW
40 51.08.018, as follows:

	AFTER	PERCENTAGE
1		
2	June 30, 1993	105%
3	June 30, 1994	110%
4	June 30, 1995	115%
5	June 30, 1996	120%

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

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

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

23 If any dependent is under the age of eighteen years at the time
24 of the occurrence of the injury, the payment to such dependent shall
25 cease when such dependent reaches the age of eighteen years except
26 such payments shall continue until the dependent reaches age twenty-
27 three while permanently enrolled at a full time course in an
28 accredited school. The payment to any dependent shall cease if and
29 when, under the same circumstances, the necessity creating the
30 dependency would have ceased if the injury had not happened.

31 (6) For claims filed prior to July 1, 1986, if the injured worker
32 dies during the period of permanent total disability, whatever the
33 cause of death, leaving a surviving spouse, or child, or children,
34 the surviving spouse or child or children shall receive benefits as
35 if death resulted from the injury as provided in subsections (2)
36 through (4) of this section. Except as provided in subsection (2)(b)
37 of this section, upon remarriage or death of such surviving spouse,

1 the payments to such child or children shall be made as provided in
2 subsection (2) of this section when the surviving spouse of a
3 deceased worker remarries.

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

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