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SENATE BILL 6078

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State of Washington

61st Legislature

2009 Regular Session

By Senators Prentice and Shin

Read first time 02/23/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to death benefits under the law enforcement  
2 officers' and firefighters' retirement system, plan 1; and amending RCW  
3 41.26.160 and 41.26.161.

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

5 **Sec. 1.** RCW 41.26.160 and 2005 c 62 s 1 are each amended to read  
6 as follows:

7 (1) In the event of the duty connected death of any member who is  
8 in active service, or who has vested under the provisions of RCW  
9 41.26.090 with twenty or more service credit years of service, or who  
10 is on duty connected disability leave or retired for duty connected  
11 disability, the surviving spouse shall become entitled, subject to RCW  
12 41.26.162, to receive a monthly allowance equal to: If active, the  
13 choice of fifty percent of the final average salary at the date of  
14 death ((if active,)) or the amount of the retirement allowance the  
15 vested member would have received if he or she had retired on the date  
16 of death; or the amount of retirement allowance the vested member would  
17 have received at age fifty~~((7))~~; or the amount of the retirement  
18 allowance such retired member was receiving at the time of death if  
19 retired for duty connected disability. The amount of this allowance

1 will be increased five percent of final average salary for each child  
2 as defined in RCW 41.26.030(7), subject to a maximum combined allowance  
3 of sixty percent of final average salary: PROVIDED, That if the child  
4 or children is or are in the care of a legal guardian, payment of the  
5 increase attributable to each child will be made to the child's legal  
6 guardian or, in the absence of a legal guardian and if the member has  
7 created a trust for the benefit of the child or children, payment of  
8 the increase attributable to each child will be made to the trust.

9 (2) If at the time of the duty connected death of a vested member  
10 with twenty or more service credit years of service as provided in  
11 subsection (1) of this section or a member retired for duty connected  
12 disability, the surviving spouse has not been lawfully married to such  
13 member for one year prior to retirement or separation from service if  
14 a vested member, the surviving spouse shall not be eligible to receive  
15 the benefits under this section: PROVIDED, That if a member dies as a  
16 result of a disability incurred in the line of duty, then if he or she  
17 was married at the time he or she was disabled, the surviving spouse  
18 shall be eligible to receive the benefits under this section.

19 (3) If there be no surviving spouse eligible to receive benefits at  
20 the time of such member's duty connected death, then the child or  
21 children of such member shall receive a monthly allowance equal to  
22 thirty percent of final average salary for one child and an additional  
23 ten percent for each additional child subject to a maximum combined  
24 payment, under this subsection, of sixty percent of final average  
25 salary. When there cease to be any eligible children as defined in RCW  
26 41.26.030(7), there shall be paid to the legal heirs of the member the  
27 excess, if any, of accumulated contributions of the member at the time  
28 of death over all payments made to survivors on his or her behalf under  
29 this chapter: PROVIDED, That payments under this subsection to  
30 children shall be prorated equally among the children, if more than  
31 one. If the member has created a trust for the benefit of the child or  
32 children, the payment shall be made to the trust.

33 (4) In the event that there is no surviving spouse eligible to  
34 receive benefits under this section, and that there be no child or  
35 children eligible to receive benefits under this section, then the  
36 accumulated contributions shall be paid to the estate of the member.

37 (5) If a surviving spouse receiving benefits under this section

1 remarries after June 13, 2002, the surviving spouse shall continue to  
2 receive the benefits under this section.

3 (6) If a surviving spouse receiving benefits under the provisions  
4 of this section thereafter dies and there are children as defined in  
5 RCW 41.26.030(7), payment to the spouse shall cease and the child or  
6 children shall receive the benefits as provided in subsection (3) of  
7 this section.

8 (7) The payment provided by this section shall become due the day  
9 following the date of death and payments shall be retroactive to that  
10 date.

11 **Sec. 2.** RCW 41.26.161 and 2005 c 62 s 2 are each amended to read  
12 as follows:

13 (1) In the event of the nonduty connected death of any member who  
14 is in active service, or who has vested under the provisions of RCW  
15 41.26.090 with twenty or more service credit years of service, or who  
16 is on disability leave or retired, whether for nonduty connected  
17 disability or service, the surviving spouse shall become entitled,  
18 subject to RCW 41.26.162, to receive a monthly allowance equal to: If  
19 active, the greater of fifty percent of the final average salary at the  
20 date of death ((if active,)) or the amount of retirement allowance the  
21 vested member would have received if he or she had retired on the date  
22 of death; or the amount of retirement allowance the vested member would  
23 have received at age fifty((7)); or the amount of the retirement  
24 allowance such retired member was receiving at the time of death if  
25 retired for service or nonduty connected disability. The amount of  
26 this allowance will be increased five percent of final average salary  
27 for each child as defined in RCW 41.26.030(7), subject to a maximum  
28 combined allowance of sixty percent of final average salary: PROVIDED,  
29 That if the child or children is or are in the care of a legal  
30 guardian, payment of the increase attributable to each child will be  
31 made to the child's legal guardian or, in the absence of a legal  
32 guardian and if the member has created a trust for the benefit of the  
33 child or children, payment of the increase attributable to each child  
34 will be made to the trust.

35 (2) If at the time of the death of a vested member with twenty or  
36 more service credit years of service as provided in subsection (1) of  
37 this section or a member retired for service or disability, the

1 surviving spouse has not been lawfully married to such member for one  
2 year prior to retirement or separation from service if a vested member,  
3 the surviving spouse shall not be eligible to receive the benefits  
4 under this section.

5 (3) If there be no surviving spouse eligible to receive benefits at  
6 the time of such member's death, then the child or children of such  
7 member shall receive a monthly allowance equal to thirty percent of  
8 final average salary for one child and an additional ten percent for  
9 each additional child subject to a maximum combined payment, under this  
10 subsection, of sixty percent of final average salary. When there cease  
11 to be any eligible children as defined in RCW 41.26.030(7), there shall  
12 be paid to the legal heirs of the member the excess, if any, of  
13 accumulated contributions of the member at the time of death over all  
14 payments made to survivors on his or her behalf under this chapter:  
15 PROVIDED, That payments under this subsection to children shall be  
16 prorated equally among the children, if more than one. If the member  
17 has created a trust for the benefit of the child or children, the  
18 payment shall be made to the trust.

19 (4) In the event that there is no surviving spouse eligible to  
20 receive benefits under this section, and that there be no child or  
21 children eligible to receive benefits under this section, then the  
22 accumulated contributions shall be paid to the estate of said member.

23 (5) If a surviving spouse receiving benefits under this section  
24 remarries after June 13, 2002, the surviving spouse shall continue to  
25 receive the benefits under this section.

26 (6) If a surviving spouse receiving benefits under the provisions  
27 of this section thereafter dies and there are children as defined in  
28 RCW 41.26.030(7), payment to the spouse shall cease and the child or  
29 children shall receive the benefits as provided in subsection (3) of  
30 this section.

31 (7) The payment provided by this section shall become due the day  
32 following the date of death and payments shall be retroactive to that  
33 date.

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