

ASSEMBLY BILL

No. 75

Introduced by Assembly Member Negrete McLeod

December 19, 2002

An act to amend Sections 20835, 21460, and 21625 of, and to add Section 21626.5 to, the Government Code, relating to public employees' death benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 75, as introduced, Negrete McLeod. Public employee post-retirement death benefits: local firefighters.

Existing law authorizes contracting agencies of the Public Employees' Retirement System to provide the survivors, as specified, of a deceased, retired local member an allowance equal to 25% of a specified portion of the deceased member's retirement allowance plus 50% of the remaining portion of the deceased member's allowance.

This bill would authorize those contracting agencies to provide the survivors of a deceased, retired local firefighter an allowance equal to 40% of a specified portion of the deceased member's retirement allowance plus 75% of the remaining portion of the deceased member's allowance. The bill would make related technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20835 of the Government Code is
2 amended to read:

1 20835. A public agency ~~which~~ *that* becomes a contracting
2 agency on or after January 1, 1977, or ~~which~~ *that* amends its
3 contract to include the benefits provided in Sections 21624 and
4 21626 or Section 21626.5, ~~shall~~ *is not be* an employer for ~~purpose~~
5 *purposes* of Section 20834, and all contributions of the contracting
6 agency shall be held exclusively for the benefit of its employees,
7 its retired employees, and beneficiaries of those employees and
8 retired employees.

9 SEC. 2. Section 21460 of the Government Code is amended
10 to read:

11 21460. A member who elects to receive the unmodified
12 allowance or optional settlement 1, or optional settlement 2, 3, or
13 4 with or without making the election specified in Section 21459,
14 and who names his or her spouse as the option beneficiary, and
15 whose spouse is also an eligible survivor for the benefits provided
16 by Section 21624, 21626, 21626.5, 21627, 21628, 21629, or
17 21630, and where the total benefit to the surviving spouse is at least
18 50 percent of the member's unmodified allowance, may
19 concurrently and irrevocably elect to have his or her allowance
20 paid as a "qualified joint and survivor annuity." Notwithstanding
21 any other provision of this part, upon the election, the survivor
22 allowance shall be paid only to the member's spouse and shall
23 continue to be paid upon the remarriage of the spouse. Any cost
24 due to this election shall be paid by the member through an
25 actuarial reduction to his or her allowance.

26 For purposes of this section, a member's retirement allowance
27 shall be determined without regard to any limitation required
28 pursuant to Section 415 of Title 26 of the United States Code but
29 the amount payable to the spouse shall be subject to those limits
30 as if it were the retirement allowance of the member.

31 SEC. 3. Section 21625 of the Government Code is amended
32 to read:

33 21625. Notwithstanding any other provision of this part, upon
34 the member's election to be subject to Section 21460, the benefits
35 provided by Section 21624, 21626, 21626.5, 21627, 21628,
36 21629, or 21630, as applicable, shall be payable only to the
37 member's eligible surviving spouse and for his or her lifetime. The
38 benefit ~~shall~~ *does* not cease upon the remarriage of the surviving
39 spouse.



1 SEC. 4. Section 21626.5 is added to the Government Code, to
2 read:

3 21626.5. (a) Upon the death of a local firefighter member
4 whose retirement for service or disability is effective on or after
5 January 1, 2004, a monthly allowance derived from employer
6 contributions equal to a percentage of the amount of his or her
7 retirement allowance as it was at his or her death based on service
8 credited to him or her as a member subject to this section, but
9 excluding any portion of the retirement allowance derived from
10 additional contributions of the member, shall be paid to the
11 surviving spouse throughout life. The percentage shall be 40
12 percent for an allowance based on service for which the allowance
13 is reduced because the service was also covered under the federal
14 system and 75 percent for an allowance based on any other service.
15 If there is no surviving spouse, or upon the death of the surviving
16 spouse, the allowance shall be paid collectively to every unmarried
17 child of the deceased member who has not attained 18 years of age,
18 or who is disabled by a condition that disabled that child prior to
19 attaining 18 years of age and that has continued without
20 interruption after 18 years of age, until the disability ceases. If, at
21 the time of the retired member's death, there is no eligible
22 surviving spouse or children, the allowance shall be paid to a
23 parent, or collectively to parents, of the deceased member
24 dependent upon him or her for support. If, on the effective date of
25 his or her retirement, the member has no surviving spouse, eligible
26 children, or dependent parents and elected an optional settlement,
27 no allowance under this section shall be paid.

28 (b) "Surviving spouse," for purposes of service retirements
29 subject to this section, means a husband or wife who was married
30 to the member for a continuous period beginning at least one year
31 prior to his or her retirement and ending on the date of his or her
32 death and, for purposes of disability retirements subject to this
33 section, means a husband or wife who was married to the member
34 on the date of his or her retirement and continuously to the date of
35 his or her death.

36 (c) This section does not apply to any contracting agency, nor
37 to the employees of any contracting agency, unless and until the
38 agency elects to be subject to this section by amendment to its
39 contract made in the manner prescribed for approval of contracts,
40 except that an election among employees is not required or, in the



1 case of contracts made on or after January 1, 2004, by express
2 provision of the contract. The operative date of this section for
3 purposes of application to the local firefighters of a contracting
4 agency shall be the effective date of the contract or contract
5 amendment.

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