

AMENDED IN SENATE AUGUST 22, 1996

AMENDED IN ASSEMBLY APRIL 18, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3478**

**Introduced by Assembly Member House Aguiar**

*(Principal coauthors: Assembly Members Boland, Bowler, Brulte, Goldsmith, Granlund, House, and Rainey)*

*(Principal coauthor: Senator Lockyer)*

*(Coauthors: Assembly Members Ackerman, Alby, Alpert, Battin, Bowen, Brewer, Cannella, Conroy, Cunneen, Davis, Firestone, Frusetta, Hawkins, Knight, Kuykendall, Machado, Margett, McPherson, Miller, Poochigian, Pringle, Rogan, Takasugi, Thompson, and Weggeland)*

*(Coauthors: Senators Johannessen, Leslie, and Wright)*

March 18, 1996

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~~An act to amend Section 4800.5 of the Labor Code, relating to workers' compensation. An act to amend Section 21635 of, to amend and renumber Section 21373 of, and to add Sections 21552 and 21553 to, the Government Code, to add Section 4856 to the Labor Code, and to amend Section 5101.2 of the Vehicle Code, relating to public employees, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 3478, as amended, **House Aguiar**. ~~Workers' compensation~~ *Public employees: retirement: health benefits.*

(1) *The Public Employees' Retirement Law provides for survivor continuance allowances and special death benefits to surviving spouses not to cease upon remarriage. The provisions are not applicable to local members employed by contracting agencies unless elected by the agency and are not subject to collective bargaining.*

*This bill would make those benefits applicable to surviving spouses of deceased local safety members who were firefighters or peace officers who died in the line of duty.*

*The bill would also delete the collective bargaining exclusion thereby making those benefits available for collective bargaining by other local employees.*

(2) *Existing law provides for special payments to state and local peace officers for injuries arising out of and in the course of their duties.*

*This bill would require local employers to continue to provide health benefits to the spouses and dependents of firefighters and peace officers benefits to the spouses and dependents of firefighters and peace officers who died in the line of duty.*

(3) *Existing law requires the Department of Motor Vehicles to issue, upon the payment of special fees, environmental and other special license plates, including special license plates to firefighters who meet prescribed requirements.*

*This bill would authorize the transfer of those plates to surviving spouses upon the death of the person issued the plates.*

(4) *This bill would declare that it is to take effect immediately as an urgency statute.*

~~Under existing law, a person injured in the course of employment is generally entitled to workers' compensation benefits. In the case of a member of the California Highway Patrol who is disabled in the course of employment, he or she shall become entitled, to a leave of absence without loss of salary, in lieu of disability payments, subject to various restrictions. Existing law provides that benefits payable for eligible sworn members of the California Highway Patrol whose disability is solely the result of cumulative trauma or~~



~~injury shall be limited to the period of temporary disability or entitlement to maintenance allowance.~~

~~This bill would limit benefits in that instance to the actual period of temporary disability or entitlement to maintenance allowance, or for one year, whichever is less.~~

~~This bill would also specify that peace officers of the California State Police Division who became sworn members of the California Highway Patrol as a result of the Governor's Reorganization Plan No. 1 of 1995, are included within the above provisions.~~

Vote: ~~majority~~ 2/3. 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 4800.5 of the Labor Code is~~  
2 *SECTION 1. Section 21373 of the Government Code*  
3 *is amended and renumbered to read:*

4 ~~{21551}21373.—~~  
5 *21551.* Notwithstanding any other provisions of this  
6 part, the benefits payable to a surviving spouse pursuant  
7 to Sections ~~21364, 21365.5, 21365.55, 21365.6~~ *21541, 21546,*  
8 *21547, 21548,* and Article ~~6~~ *3* (commencing with Section  
9 ~~21380~~ *21570*), shall be paid as follows:

10 (a) Any surviving spouse who remarries on or after ~~the~~  
11 ~~operative date of the statute adding this section~~  
12 *September 19, 1989*, shall continue to receive the lifetime  
13 allowance to which he or she is entitled, without  
14 reduction. However, pursuant to Section 22811.5, the  
15 surviving spouse who remarries on or after that date may  
16 not enroll his or her new spouse or stepchildren as family  
17 members under the continued health benefits coverage  
18 of the surviving spouse.

19 (b) Any surviving spouse who elected the reduction  
20 specified in Section ~~21372~~ *21550* shall be restored to the  
21 lifetime allowance to which he or she was originally  
22 entitled, for all benefits payable on or after ~~the operative~~  
23 ~~date of the statute adding this section~~ *September 19, 1989.*

24 This section shall not apply to any contracting agency,  
25 unless and until the agency elects to be subject to this



1 section by amendment to its contract made in the  
2 manner prescribed for approval of contracts or, in the  
3 case of contracts made after ~~the operative date of the~~  
4 ~~statute adding this section~~ *September 19, 1989*, by express  
5 provision in the contract making the contracting agency  
6 subject to this section. This section shall only apply to a  
7 surviving spouse of a local member employed by the  
8 contracting agency whose remarriage occurred on or  
9 after the date the agency elects to be subject to this  
10 section. Any surviving spouse of a local member of the  
11 contracting agency, who elected the reduction specified  
12 in Section ~~21372~~ 21550, shall be restored to the lifetime  
13 allowance to which he or she was originally entitled, for  
14 all benefits payable on or after the election by the  
15 contracting agency to be subject to this section.

16 This section shall apply to a surviving spouse of a school  
17 member employed by a school district whose remarriage  
18 occurred on or after January 1, 1991. Any surviving spouse  
19 of a school member, who elected the reduction specified  
20 in Section ~~21372~~ 21550, shall be restored to the lifetime  
21 allowance to which he or she was originally entitled, for  
22 all benefits payable on or after January 1, 1991.

23 ~~The employer is not required to meet and confer with~~  
24 ~~an employee organization regarding the subject matter~~  
25 ~~of this section, and the subject matter shall not be~~  
26 ~~included within the scope of representation pursuant to~~  
27 ~~Section 3504.~~

28 *SEC. 2. Section 21552 is added to the Government*  
29 *Code, to read:*

30 *21552. Notwithstanding any other provision of this*  
31 *part, on and after the effective date of this section, the*  
32 *remarriage of any surviving spouse of any deceased local*  
33 *safety member who was a firefighter, or peace officer as*  
34 *described in Chapter 4.5 (commencing with Section 830)*  
35 *of Title 3 of Part 2 of the Penal Code, who died in the line*  
36 *of duty, shall not result in the reduction or cessation of any*  
37 *monthly allowance the spouse was receiving pursuant to*  
38 *Section 21541 and Article 3 (commencing with Section*  
39 *21570).*



1 SEC. 3. Section 21553 is added to the Government  
2 Code, to read:

3 21553. (a) The monthly allowance pursuant to  
4 Section 21541 and Article 3 (commencing with Section  
5 21570), paid to the surviving spouse of any deceased local  
6 safety member who was a firefighter, or peace officer as  
7 described in Chapter 4.5 (commencing with Section 830)  
8 of Title 3 of Part 2 of the Penal Code, who died in the line  
9 of duty, shall be restored if that allowance has been  
10 reduced or discontinued upon the spouse's remarriage.  
11 The allowance shall be resumed on the effective date of  
12 this section, or the first of the month, following receipt by  
13 the board of a written application from the spouse for  
14 resumption of the allowance, whichever is later.

15 (b) The amount of the benefits due shall be calculated  
16 as though the allowance had never been reduced or  
17 discontinued because of remarriage, and shall not be  
18 payable for the period between the date of reduction or  
19 discontinuance and the effective date of resumption.

20 (c) The board has no duty to identify, locate, or notify  
21 a spouse who previously had his or her allowance reduced  
22 or discontinued because of remarriage.

23 (d) Any surviving spouse shall be entitled to  
24 restoration of terminated or diminished benefits upon  
25 application to the system if he or she previously qualified  
26 for special death benefits because his or her spouse died  
27 in the line of duty.

28 SEC. 4. Section 21635 of the Government Code is  
29 amended to read:

30 21635. Notwithstanding any other provisions of this  
31 part, survivor continuance allowances payable to  
32 surviving spouses upon death after retirement of a  
33 member shall not cease upon remarriage if the  
34 remarriage occurs on or after January 1, 1985. However,  
35 pursuant to Section 22811.5, the surviving spouse may not  
36 add the new spouse or stepchildren as family members  
37 under the continued health benefits coverage of the  
38 surviving spouse.

39 This section shall not apply to any contracting agency,  
40 other than those contracting agencies that are school



1 districts or community college districts, as defined in  
 2 subdivision (i) of Section 20057, until the agency elects to  
 3 be subject to this section by amendment to its contract  
 4 made in the manner prescribed for approval of contracts  
 5 or, in the case of contracts made after January 1, 1985, by  
 6 express provision in the contract making the contracting  
 7 agency subject to this section and, in that case, this section  
 8 shall only apply to a surviving spouse of a local member  
 9 employed by the contracting agency whose remarriage  
 10 occurred on or after the date the contracting agency  
 11 elects to be subject to this section.

12 ~~The employer is not required by this section to meet~~  
 13 ~~and confer with an employee organization regarding the~~  
 14 ~~subject matter of this section, and the subject matter shall~~  
 15 ~~not be included within the scope of representation~~  
 16 ~~pursuant to Section 3504.~~

17 *SEC. 5. Section 4856 is added to the Labor Code, to*  
 18 *read:*

19 *4856. Whenever any local employee who is a*  
 20 *firefighter, or peace officer as described in Chapter 4.5*  
 21 *(commencing with Section 830) of Title 3 of Part 2 of the*  
 22 *Penal Code, is killed in the performance of his or her duty*  
 23 *or dies as a result of an accident or injury caused by*  
 24 *external violence or physical force incurred in the*  
 25 *performance of his or her duty, the employer shall*  
 26 *continue providing health benefits to the deceased*  
 27 *employee's spouse under the same terms and conditions*  
 28 *provided prior to the death of the employee unless the*  
 29 *surviving spouse elects to receive a lump-sum survivors*  
 30 *benefit in lieu of monthly benefits. Minor dependents*  
 31 *shall continue to receive benefits under the coverage*  
 32 *provided the surviving spouse or, if there is no surviving*  
 33 *spouse, until the age of 21 years. However, pursuant to*  
 34 *Section 22811.5 of the Government Code, the surviving*  
 35 *spouse may not add the new spouse or stepchildren as*  
 36 *family members under the continued health benefits*  
 37 *coverage of the surviving spouse.*

38 *SEC. 6. Section 5101.2 of the Vehicle Code is amended*  
 39 *to read:*



1 5101.2. (a) Any person otherwise eligible under this  
2 article who is a firefighter or a retired firefighter may  
3 apply for special license plates for the vehicle under this  
4 article. Any license plates issued pursuant to this section  
5 shall be issued in accordance with Section 5060.

6 (b) The applicant shall, by satisfactory proof, show all  
7 of the following:

8 (1) The applicant is, or has retired, in good standing as  
9 an officer, an employee, or a member of a fire department  
10 or a fire service of the state, a county, a city, a district, or  
11 any other political subdivision of the state, whether in a  
12 volunteer, partly paid, or fully paid status.

13 (2) The applicant is, or was until retirement, regularly  
14 employed as a firefighter or regularly enrolled as a  
15 volunteer firefighter.

16 (3) The applicant's principal duties fall, or fell until  
17 retirement, within the scope of active firefighting and  
18 any of the following activities:

- 19 (A) Fire prevention service.
- 20 (B) Fire training.
- 21 (C) Hazardous materials abatement.
- 22 (D) Arson investigation.
- 23 (E) Emergency medical services.

24 (c) The special license plates issued under this section  
25 shall contain the words "California Firefighter" and shall  
26 run in a regular numerical series.

27 (d) In addition to the regular fees for an original  
28 registration, a renewal of registration, or a transfer of  
29 registration, the following special license plate fees shall  
30 be paid:

31 (1) A fee of thirty-five dollars (\$35) for the initial  
32 issuance of the special license plates. These special license  
33 plates shall be permanent and shall not be required to be  
34 replaced.

35 (2) A fee of twenty dollars (\$20) for each renewal of  
36 registration which includes the continued display of the  
37 special license plates.

38 (3) If the special license plates become damaged or  
39 unserviceable, a fee of thirty-five dollars (\$35) for the



1 replacement of the special license plates, obtained from  
2 the department upon proper application therefor.

3 (4) A fee of fifteen dollars (\$15) for the transfer of the  
4 special license plates to another vehicle qualifying as a  
5 vehicle owned by a firefighter who has met the  
6 requirements set forth in subdivision (b).

7 (5) In addition, for the issuance of environmental  
8 license plates, as defined in Section 5103, with the special  
9 firefighter personal vehicle license plates and distinctive  
10 design or decal, the additional fees prescribed in Sections  
11 5106 and 5108. The additional fees collected pursuant to  
12 this paragraph shall be deposited in the California  
13 Environmental License Plate Fund.

14 (e) Upon the death of a person issued special license  
15 plates pursuant to this section, the plates shall be  
16 *transferred to the surviving spouse, if he or she requests,*  
17 *or shall be* returned to the department within 60 days  
18 after the death of the plateholder or upon the expiration  
19 of the vehicle registration, whichever occurs first.

20 (f) Except as provided in paragraph (5) of subdivision  
21 (d), the revenues derived from the additional special fees  
22 provided in this section, less costs incurred by the  
23 department pursuant to this section, shall, prior to  
24 January 1, 1999, be deposited in the California  
25 Firefighters' Memorial Fund established by Section  
26 18518.2 of the Revenue and Taxation Code.

27 (g) Except as provided in paragraph (5) of subdivision  
28 (d), the revenues derived from the additional special fees  
29 provided in this section, less costs incurred by the  
30 department pursuant to this section, shall, on and after  
31 January 1, 1999, be deposited in the California Fire and  
32 Arson Training Fund established by Section 13159.10 of  
33 the Health and Safety Code.

34 *SEC. 7. This act is an urgency statute necessary for the*  
35 *immediate preservation of the public peace, health, or*  
36 *safety within the meaning of Article IV of the*  
37 *Constitution and shall go into immediate effect. The facts*  
38 *constituting the necessity are:*

39 *In order for retirement and health benefit payments to*  
40 *be promptly resumed to surviving spouses of deceased*



1 *firefighters and peace officers who died in the line of duty*  
2 *this act shall take effect immediately.*

3 amended to read:

4 ~~4800.5. (a) Whenever any sworn member of the~~  
5 ~~California Highway Patrol is disabled by a single injury,~~  
6 ~~excluding disabilities that are the result of cumulative~~  
7 ~~trauma or cumulative injuries, arising out of and in the~~  
8 ~~course of his or her duties, he or she shall become entitled,~~  
9 ~~regardless of his or her period of service with the patrol,~~  
10 ~~to leave of absence while so disabled without loss of salary,~~  
11 ~~in lieu of disability payments under this chapter, for a~~  
12 ~~period of not exceeding one year. This section shall apply~~  
13 ~~only to members of the California Highway Patrol whose~~  
14 ~~principal duties consist of active law enforcement and~~  
15 ~~shall not apply to persons employed in the Department~~  
16 ~~of the California Highway Patrol whose principal duties~~  
17 ~~are those of telephone operator, clerk, stenographer,~~  
18 ~~machinist, mechanic, or otherwise clearly not falling~~  
19 ~~within the scope of active law enforcement service, even~~  
20 ~~though this person is subject to occasional call or is~~  
21 ~~occasionally called upon to perform the duties of active~~  
22 ~~law enforcement service.~~

23 ~~(b) Benefits payable for eligible sworn members of the~~  
24 ~~California Highway Patrol whose disability is solely the~~  
25 ~~result of cumulative trauma or injury shall be limited to~~  
26 ~~the actual period of temporary disability or entitlement~~  
27 ~~to maintenance allowance, or for one year, whichever is~~  
28 ~~less.~~

29 ~~(c) This section shall not apply to periods of disability~~  
30 ~~that occur subsequent to termination of employment by~~  
31 ~~resignation, retirement, or dismissal. When this section~~  
32 ~~does not apply, the employee shall be eligible for those~~  
33 ~~benefits that would apply had this section not been~~  
34 ~~enacted.~~

35 ~~(d) The appeals board may determine, upon request~~  
36 ~~of any party, whether or not the disability referred to in~~  
37 ~~this section arose out of and in the course of duty. In any~~  
38 ~~action in which a dispute exists regarding the nature of~~  
39 ~~the injury or the period of temporary disability or~~  
40 ~~entitlement to maintenance allowance, or both, and upon~~



1 ~~the request of any party thereto, the appeals board shall~~  
 2 ~~determine when the disability commenced and ceased,~~  
 3 ~~and the amount of benefits provided by this division to~~  
 4 ~~which the employee is entitled during the period of this~~  
 5 ~~disability. The appeals board shall have the jurisdiction to~~  
 6 ~~award and enforce payment of these benefits, subject to~~  
 7 ~~subdivision (a) or (b), pursuant to Part 4 (commencing~~  
 8 ~~with Section 5300). A decision issued by the appeals board~~  
 9 ~~under this section is final and binding upon the parties~~  
 10 ~~subject to the rights of appeal contained in Chapter 7~~  
 11 ~~(commencing with Section 5900) of Part 4.~~

12 ~~(e) This section shall apply for periods of disability~~  
 13 ~~commencing on or after January 1, 1995.~~

14 ~~(f) This section does not apply to peace officers~~  
 15 ~~designated under subdivision (a) of Section 2250.1 of the~~  
 16 ~~Vehicle Code.~~

17 ~~(g) Peace officers of the California State Police~~  
 18 ~~Division who became sworn members of the California~~  
 19 ~~Highway Patrol as a result of the Governor's~~  
 20 ~~Reorganization Plan No. 1 of 1995, other than those~~  
 21 ~~officers described in subdivision (f), shall be eligible for~~  
 22 ~~injury benefits accruing to sworn members of the~~  
 23 ~~California Highway Patrol under this division only for~~  
 24 ~~injuries occurring subsequent to the effective date of that~~  
 25 ~~reorganization plan.~~

