

Assembly Bill No. 2621

CHAPTER 1031

An act to amend Section 21541 of, and to add Section 21541.5 to, the Government Code, relating to preretirement death benefits.

[Approved by Governor September 30, 2000. Filed
with Secretary of State September 30, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2621, Rod Pacheco. Preretirement death benefits.

The Public Employees' Retirement Law provides for a preretirement special death benefit that is calculated, in part, as a fraction of the deceased member's final compensation at the time of the injury or disease causing death. Under that law, children of deceased members who are eligible for the special death benefit lose that eligibility upon adoption.

This bill would provide that, for purposes of calculating or recalculating the special death benefit, as specified, the deceased member's final compensation shall be deemed to increase when the compensation is increased for his or her final job classification and membership category, as specified. The bill would also delete the provision that terminates a child's eligibility for benefits upon adoption and would restore those benefits, as specified, for children whose eligibility was previously terminated due to adoption.

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

SECTION 1. Section 21541 of the Government Code is amended to read:

21541. The special death benefit consists of the following:

(a) An amount equal to and derived from the same source as the basic death benefit exclusive of the contributions from which the annuity provided under subdivision (d) is paid.

(b) An amount sufficient, when added to the amount provided under subdivision (a), to provide, when applied according to tables adopted by the board, a monthly death allowance equal to one-half of his or her final compensation in the membership category applicable to him or her at the time of the injury, or the onset of the disease, causing death, as adjusted pursuant to subdivision (e), which amount shall be payable to the surviving spouse to whom he or she was married either continuously for at least one year prior to death, or prior to sustaining the injury or disease resulting in death, as long as the surviving spouse lives; or, if there is no surviving spouse or if the spouse dies before all children of the deceased member attain the

age of 22 years, to his or her children under the age of 22 years collectively until every child shall have died, married, or attained the age of 22 years. However, no child shall receive any part of the allowance after marrying or attaining the age of 22 years. The increases described in this section shall only apply to spouses of deceased members who would have been less than 50 years of age, if still living on January 1, 2001.

(c) During the lifetime of the surviving spouse, an additional percentage of the death benefit allowed by this section, exclusive of the annuity under subdivision (d), shall be paid to the spouse of a member who is killed in the performance of his or her duty or who dies as a result of an accident or an injury caused by external violence or physical force, incurred in the performance of his or her duty, for each of his or her children during the lifetime of the child, or until the child marries or reaches the age of 22 years, as follows: for one child, 25 percent; for two children, 40 percent; and for three or more children, 50 percent.

(d) An annuity that is the actuarial equivalent, assuming monthly payments for life to the surviving spouse, of the deceased's accumulated additional contributions at the date of his or her death, plus his or her accumulated contributions at that date based on compensation earned in any membership category other than the category applicable to him or her at the time of the injury or the onset of the disease causing death.

(e) For purposes of this section only, the deceased member's final compensation shall be deemed to increase, and the death benefit under subdivision (b) shall be increased correspondingly, at any time and to the extent the compensation is increased for then-active members employed in the job classification and membership category that was applicable to the deceased member at the time of the injury, or the onset of the disease, causing death. The deceased member's final compensation shall be deemed to be subject to further increases hereunder only until the earlier of (1) the death of the surviving spouse or (2) the date that the deceased member would have attained the age of 50 years.

(f) Monthly allowances shall be adjusted annually for time commencing on the first day of September and effective with the monthly allowance regularly payable on the first day of the October beginning with October 1, 2001. The employer of the deceased member shall be responsible for reporting and certifying top range salary rates by the first day of July, beginning with July 1, 2001.

(g) If the surviving spouse does not have custody of the member's children, the additional amount payable pursuant to this section shall be payable to the person having custody of the children for each child during the lifetime of the child, or until the child marries or reaches the age of 22 years.



The computation for time prior to entering the membership category applicable to the deceased at the time of the injury, or the onset of the disease, causing death shall be based on the compensation earnable by him or her in the position first held by him or her in that category.

“Spouse,” for purposes of this section, means a wife or husband.

This section shall apply to all contracting agencies and to the employees of all contracting agencies.

(h) For purposes of Section 21313, the base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of the adjustment.

(i) The amount of the death benefit payable pursuant to this section on and after January 1, 2001, with respect to any member who died prior to that date, shall be recalculated on and after that date pursuant to subdivision (e).

SEC. 2. Section 21541.5 is added to the Government Code, to read:

21541.5. Any child whose benefits under Section 21541 were terminated upon his or her adoption, pursuant to that section as it read prior to January 1, 2001, shall have those benefits restored as follows:

(a) The child shall receive a lump-sum payment in the amount that would have paid, if he or she had not been adopted, from the date of adoption to the earlier of (1) the date his or her eligibility for benefits under Section 21541 would have otherwise terminated had he or she not been adopted or (2) January 1, 2001.

(b) If on January 1, 2001, the child is eligible for benefits under Section 21541, he or she shall receive benefits from and after that date pursuant to Section 21541.

