

Introduced by Senator Ortiz

February 12, 1999

An act to amend Sections 21572, 21573, and 21581 of, and to add and repeal Section 21574.7 of, the Government Code, relating to the Public Employees' Retirement System.

LEGISLATIVE COUNSEL'S DIGEST

SB 400, as introduced, Ortiz. Public Employees' Retirement System: benefits.

The Public Employees' Retirement Law provides preretirement death benefits for state members not covered by the federal Social Security Act and prescribes the member contribution for those benefits.

This bill would increase those benefits for state and school members on January 1, 2000, and until January 1, 2010, and would revise the member contribution rate.

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 21572 of the Government Code
 2 is amended to read:
 3 21572. (a) In lieu of benefits provided in Section
 4 21571, if the death benefit provided by Section 21532 is
 5 payable on account of a state member's death that occurs
 6 under circumstances other than those described in
 7 subparagraph (F) of paragraph (1) of subdivision (a) of
 8 Section 21530, or if an allowance under Section 21546 is



1 payable, the payment pursuant to subdivision (b) shall be
2 made, in the following order of priority:

3 (1) The surviving wife or surviving husband of the
4 member, who has the care of unmarried children,
5 including stepchildren, of the member who are under 22
6 years of age, or are incapacitated because of disability that
7 began before and has continued without interruption
8 after attainment of that age.

9 (2) The guardian of surviving unmarried children,
10 including stepchildren, of the member who are under 22
11 years of age or are so incapacitated.

12 (3) The surviving wife or surviving husband of the
13 member, who does not qualify under paragraph (1).

14 (4) Each surviving parent of the member.

15 (b) Regardless of the benefit provided by Section
16 21532 and of the beneficiary designated by the member
17 under that section, or regardless of the allowance
18 provided under Section 21546, the following applicable
19 1959 survivor allowance, under the conditions stated and
20 from contributions of the state, shall be paid:

21 (1) A surviving spouse who was either continuously
22 married to the member for at least one year prior to
23 death, or was married to the member prior to the
24 occurrence of the injury or onset of the illness that
25 resulted in death, and has the care of unmarried children,
26 including stepchildren, of the deceased member who are
27 under 22 years of age or are so incapacitated, shall be paid
28 four hundred fifty dollars (\$450) if there is one child or
29 five hundred thirty-eight dollars (\$538) per month if
30 there are two or more children. If there also are children
31 who are not in the care of the surviving spouse, the
32 portion of the allowance payable under this paragraph,
33 assuming that these children were in the care of the
34 surviving spouse, that is in excess of two hundred
35 twenty-five dollars (\$225) per month, shall be divided
36 equally among all those children and payments made to
37 the spouse and other children, as the case may be.

38 (2) If there is no surviving spouse, or if the surviving
39 spouse dies or remarries, and if there are unmarried
40 children, including stepchildren, of the deceased



1 member who are under 22 years of age or are so
2 incapacitated, or if there are children not in the care of
3 the spouse, the children shall be paid an allowance as
4 follows:

5 (A) If there is only one child, the child shall be paid two
6 hundred twenty-five dollars (\$225) per month.

7 (B) If there are two children, the children shall be paid
8 four hundred fifty dollars (\$450) per month divided
9 equally between them.

10 (C) If there are three or more children, the children
11 shall be paid five hundred thirty-eight dollars (\$538) per
12 month divided equally among them.

13 (3) A surviving spouse who has attained or attains the
14 age of 62 years and, with respect to that surviving spouse,
15 who was either continuously married to the member for
16 at least one year prior to death, or was married to the
17 member prior to the occurrence of the injury or onset of
18 the illness which resulted in death and has not remarried
19 subsequent to the member's death, shall be paid two
20 hundred twenty-five dollars (\$225) per month. No
21 allowance shall be paid under this paragraph, while the
22 surviving spouse is receiving an allowance under
23 paragraph (1), or while an allowance is being paid under
24 subparagraph (C) of paragraph (2). The allowance paid
25 under this paragraph shall be eighty-eight dollars (\$88)
26 per month while an allowance is being paid under
27 subparagraph (B) of paragraph (2).

28 (4) If there is no surviving spouse or surviving child
29 who qualifies for a 1959 survivor allowance, or if the
30 surviving spouse dies or remarries and there is no
31 surviving child, or if the surviving spouse dies or
32 remarries and the children die or marry or, if not
33 incapacitated, reach age 22, each of the member's
34 dependent parents who has attained or attains the age of
35 62, and who received at least one-half of his or her support
36 from the member at the time of the member's death, shall
37 be paid two hundred twenty-five dollars (\$225) per
38 month.

39 (c) "Stepchildren," for purposes of this section, shall
40 include only stepchildren of the member living with him



1 or her in a regular parent-child relationship at the time
2 of his or her death.

3 (d) This section shall apply to beneficiaries receiving
4 1959 survivor allowances on July 1, 1975, as well as to
5 beneficiaries with respect to the death of a state member
6 occurring on or after July 1, 1975.

7 (e) This section shall apply, with respect to benefits
8 payable on and after July 1, 1981, to all members
9 employed by a school employer, and school safety
10 members employed with a school district or community
11 college district as defined in subdivision (i) of Section
12 20057, except that it shall not apply, without contract
13 amendment, with respect to safety members who
14 became members after July 1, 1981. All assets and
15 liabilities of all school employers, and their employees, on
16 account of benefits provided under this article shall be
17 pooled into a single account, and a single employer rate
18 shall be established to provide benefits under this section
19 on account of all miscellaneous members employed by a
20 school employer and all safety members who are
21 members on July 1, 1981.

22 (f) This section shall not apply to any member in the
23 employ of an employer not subject to this section on
24 January 1, 1994.

25 (g) A contracting agency may, by amending its
26 contract, elect to make this section applicable to local
27 members employed by the agency.

28 (h) *On and after January 1, 2000, and until January 1,*
29 *2010, all state members covered by this section shall be*
30 *covered by the benefit provided under Section 21574.7.*
31 *On and after January 1, 2010, all state members not*
32 *covered by Section 21573 or 21574.7, shall be covered by*
33 *this section.*

34 SEC. 2. Section 21573 of the Government Code is
35 amended to read:

36 21573. (a) In lieu of benefits provided in Section
37 21571 or Section 21572, if the death benefit provided by
38 Section 21532 is payable on account of a state member's
39 death that occurs under circumstances other than those
40 described in subparagraph (F) of paragraph (1) of



1 subdivision (a) of Section 21530, or if an allowance under
2 Section 21546 is payable, the payment pursuant to
3 subdivision (b) shall be made in the following order of
4 priority:

5 (1) The surviving wife or surviving husband of the
6 member, who has the care of unmarried children,
7 including stepchildren, of the member who are under 22
8 years of age, or are incapacitated because of disability that
9 began before and has continued without interruption
10 after attainment of that age.

11 (2) The guardian of surviving unmarried children,
12 including stepchildren, of the member who are under 22
13 years of age or are so incapacitated.

14 (3) The surviving wife or surviving husband of the
15 member, who does not qualify under paragraph (1).

16 (4) Each surviving parent of the member.

17 (b) Regardless of the benefit provided by Section
18 21532 and of the beneficiary designated by the member
19 under that section, or regardless of the allowance
20 provided under Section 21546, the following applicable
21 1959 survivor allowance, under the conditions stated and
22 from contributions of the state, shall be paid:

23 (1) A surviving spouse who was either continuously
24 married to the member for at least one year prior to
25 death, or who was married to the member prior to the
26 occurrence of the injury or onset of the illness which
27 resulted in death, and has the care of unmarried children,
28 including stepchildren, of the deceased member who are
29 under 22 years of age or are so incapacitated, shall be paid
30 seven hundred dollars (\$700) per month if there is one
31 child, or eight hundred forty dollars (\$840) per month if
32 there are two or more children. If there also are children
33 who are not in the care of the surviving spouse, the
34 portion of the allowance payable under this paragraph,
35 assuming that these children were in the care of the
36 surviving spouse, that is in excess of three hundred fifty
37 dollars (\$350) per month, shall be divided equally among
38 all those children and payments made to the spouse and
39 other children, as the case may be.



1 (2) If there is no surviving spouse, or if the surviving
2 spouse dies or remarries, and if there are unmarried
3 children, including stepchildren, of the deceased
4 member who are under 22 years of age or are so
5 incapacitated, or if there are children not in the care of
6 the spouse, the children shall be paid an allowance as
7 follows:

8 (A) If there is only one child, the child shall be paid
9 three hundred fifty dollars (\$350) per month.

10 (B) If there are two children, the children shall be paid
11 seven hundred dollars (\$700) per month divided equally
12 between them.

13 (C) If there are three or more children, the children
14 shall be paid eight hundred forty dollars (\$840) per
15 month divided equally among them.

16 (3) A surviving spouse who has attained or attains the
17 age of 62 years, and, with respect to that surviving spouse,
18 who was either continuously married to the member for
19 at least one year prior to death, or who was married to the
20 member prior to the occurrence of the injury or onset of
21 the illness which resulted in death and has not remarried
22 subsequent to the member's death, shall be paid three
23 hundred fifty dollars (\$350) per month. No allowance
24 shall be paid under paragraph (1), or while an allowance
25 is being paid under subparagraph (C) of paragraph (2).
26 The allowance paid under this paragraph shall be one
27 hundred forty dollars (\$140) per month while an
28 allowance is being paid under subparagraph (B) of
29 paragraph (2).

30 (4) If there is no surviving spouse or surviving child
31 who qualifies for the 1959 survivor allowance, or if the
32 surviving spouse dies or remarries and there is no
33 surviving child, or if the surviving spouse dies or
34 remarries and the children die or marry or, if not
35 incapacitated, reach 22 years of age, each of the member's
36 dependent parents who has attained or attains the age of
37 62 years, and who received at least one-half of his or her
38 support from the member at the time of the member's
39 death, shall be paid three hundred fifty dollars (\$350) per
40 month.



1 (c) "Stepchildren," for purposes of this section, shall
2 include only stepchildren of the member living with the
3 member in a regular parent-child relationship at the time
4 of the death of the member.

5 (d) This section shall apply to beneficiaries of state
6 members whose death occurred before January 1, 1985.
7 Where a surviving spouse attained age 62 prior to January
8 1, 1987, entitlement shall exist retroactive to January 1,
9 1985, or to his or her 62nd birthday, whichever is later. All
10 assets and liabilities of all state agencies and their
11 employees on account of benefits provided to
12 beneficiaries specified in this subdivision shall be pooled
13 into a single account. The board shall transfer from the
14 reserve for 1959 survivor contributions retained in the
15 retirement fund, an amount sufficient to pay the cost of
16 the increased benefits provided by this subdivision for
17 beneficiaries of members who died on or before
18 December 31, 1984.

19 (e) This section shall not apply to beneficiaries with
20 respect to the death of a state member, except as
21 provided in subdivision (i), occurring on or after January
22 1, 1985, unless provided for in a memorandum of
23 understanding reached pursuant to Section 3517.5, or
24 authorized by the Director of Personnel Administration
25 for classifications of state employees that are excluded
26 from, or not subject to, collective bargaining. The
27 memorandum of understanding adopting this section
28 shall be controlling without further legislative action,
29 except that if those provisions of a memorandum of
30 understanding require the expenditure of funds, those
31 provisions shall not become effective unless approved by
32 the Legislature as provided by law.

33 (f) This section shall apply, with respect to benefits
34 payable on and after January 1, 1985, to school members
35 and to school safety members, as defined in Section 20444.
36 All assets and liabilities of all school employers, and their
37 employees, on account of benefits provided under this
38 article shall be pooled into a single account, and a single
39 employer rate shall be established to provide benefits



1 under this section on account of school members
2 employed by a school employer.

3 (g) This section shall apply to members of a
4 contracting agency that, by, in its original contract, or
5 amending its contract, first elects effective on or after
6 January 1, 1985, to make this article applicable to local
7 members employed by the agency. On and after January
8 1, 1985, contracting agencies already subject to Section
9 21571 or Section 21572 may elect by contract amendment
10 to be subject to this section. All assets and liabilities of all
11 contracting agencies subject to this section, and their
12 employees, on account of benefits provided under this
13 article shall be pooled into a single account, and a single
14 employer rate shall be established to provide benefits
15 under this section on account of members employed by
16 a contracting agency which is subject to this section. Any
17 public agency first contracting with the board on and
18 after January 1, 1994, or any contracting agency
19 amending its contract to remove exclusions of member
20 classifications on or after January 1, 1994, that has not,
21 pursuant to Section 418 of Title 42 of the United States
22 Code, entered into an agreement with the federal
23 government for the coverage of its employees under the
24 federal system, shall be subject to this section.

25 (h) The rate of contribution of an employer subject to
26 this section shall be figured using the term insurance
27 valuation method. If a contracting agency that is subject
28 to this section has a surplus in its 1959 survivor benefit
29 account as of the date the contracting agency becomes
30 subject to this section, the surplus shall be applied to
31 reduce its rate of contribution. If a contracting agency
32 that is subject to this section has a deficit in its 1959
33 survivor benefit account as of the date the contracting
34 agency becomes subject to this section, its rate of
35 contribution shall be increased until the deficit is paid.

36 (i) This section shall not apply to beneficiaries with
37 respect to the death of a state member employed by the
38 California State University occurring on or after January
39 1, 1988, unless provided for in a memorandum of
40 understanding reached pursuant to Chapter 12



1 (commencing with Section 3560) of Division 4 of Title 1,
2 or authorized by the Trustees of the California State
3 University for employees excluded from collective
4 bargaining. The memorandum of understanding shall be
5 controlling without further legislative action, except that
6 if the provisions of a memorandum of understanding
7 require the expenditure of funds, the provisions shall not
8 become effective unless approved by the Legislature in
9 the annual Budget Act.

10 *(j) On and after January 1, 2000, and until January 1,*
11 *2010, all state and school members covered by this section*
12 *shall be covered by the benefit provided under Section*
13 *21574.7. On and after January 1, 2010, all state and school*
14 *members not covered by Section 21572 or 21574.7, shall be*
15 *covered by this section.*

16 SEC. 3. Section 21474.7 is added to the Government
17 Code, to read:

18 21574.7. (a) In lieu of benefits provided in Section
19 21571, 21572, 21573, or 21574, if the death benefit provided
20 by Section 21532 is payable on account of a state
21 member's death that occurs under circumstances other
22 than those described in subparagraph (F) of paragraph
23 (1) of subdivision (a) of Section 21530, or if an allowance
24 under Section 21546 is payable, the payment pursuant to
25 subdivision (b) shall be made in the following order of
26 priority:

27 (1) The surviving spouse of the member, who has the
28 care of unmarried children, including stepchildren, of the
29 member who are under 22 years of age, or are
30 incapacitated because of disability that began before and
31 has continued without interruption after the attainment
32 of that age.

33 (2) The guardian of surviving unmarried children,
34 including stepchildren, of the member who are 22 years
35 of age or are so incapacitated.

36 (3) The surviving spouse of the member, who does not
37 qualify under paragraph (1).

38 (4) Each surviving parent of the member.

39 (b) Regardless of the benefit provided by Section
40 21532 and of the beneficiary designated by the member



1 under that section, or regardless of the allowance
2 provided under Section 21546, the following applicable
3 1959 survivor allowance, under the conditions stated and
4 from contributions of the employer, shall be paid:

5 (1) A surviving spouse who was either continuously
6 married to the member for at least one year prior to
7 death, or was married to the member prior to the
8 occurrence of the injury or onset of the illness that
9 resulted in death, and has the care of unmarried children,
10 including stepchildren, of the deceased member who are
11 under 22 years of age or are so incapacitated, shall be paid
12 one thousand five hundred dollars (\$1,500) per month if
13 there is one child or one thousand eight hundred dollars
14 (\$1,800) per month if there are two or more children. If
15 there also are children who are not in the care of the
16 surviving spouse, the portion of the allowance payable
17 under this paragraph, assuming that these children were
18 in the care of the surviving spouse, that is in excess of
19 seven hundred fifty dollars (\$750) per month, shall be
20 divided equally among all those children and payments
21 made to the spouse and other children, as the case may
22 be.

23 (2) If there is no surviving spouse, or if the surviving
24 spouse dies, and if there are unmarried children,
25 including stepchildren, of the deceased member who are
26 under 22 years of age or are so incapacitated, or if there
27 are children not in the care of the spouse, the children
28 shall be paid an allowance as follows:

29 (A) If there is only one child, the child shall be paid
30 seven hundred fifty dollars (\$750) per month.

31 (B) If there are two children, the children shall be paid
32 one thousand five hundred dollars (\$1,500) per month
33 divided equally between them.

34 (C) If there are three or more children, the children
35 shall be paid one thousand eight hundred dollars (\$1,800)
36 per month divided equally among them.

37 (3) A surviving spouse who has attained or attains the
38 age of 62 years, and who was either continuously married
39 to the member for at least one year prior to death, or was
40 married to the member prior to the occurrence of the



1 injury or onset of the illness that resulted in death, shall
2 be paid seven hundred fifty dollars (\$750) per month. No
3 allowance shall be paid under paragraph (1), or while an
4 allowance is being paid under subparagraph (C) of
5 paragraph (2). The allowance paid under this paragraph
6 shall be three hundred dollars (\$300) per month while an
7 allowance is being paid under subparagraph (B) of
8 paragraph (2).

9 (4) If there is no surviving spouse or surviving child
10 who qualifies for the 1959 survivor allowance, or if the
11 surviving spouse dies and there is no surviving child, or
12 if the surviving spouse dies and the children die or marry
13 or, if not incapacitated, reach 22 years of age, each of the
14 member's dependent parents who has attained or attains
15 the age of 62 years, and who received at least one-half of
16 his or her support from the member at the time of the
17 member's death, shall be paid seven hundred fifty dollars
18 (\$750) per month.

19 (c) "Stepchildren," for purposes of this section, shall
20 include only stepchildren of the member living with the
21 member in a regular parent-child relationship at the time
22 of the death of the member.

23 (d) This section shall only apply to state and school
24 members effective on or after January 1, 1999. All assets
25 and liabilities of employers subject to this section, and
26 their employees, on account of benefits provided under
27 this article shall be pooled into a single account, and a
28 single employer rate shall be established to provide
29 benefits under this section on account of state and school
30 members employed by the state or a school employer.

31 (e) The rate of contribution of an employer subject to
32 this section shall be calculated using a method
33 determined by the board. Surplus assets shall be applied
34 to reduce the rate of contribution. If a deficit exists, the
35 rate of contribution shall be increased until the deficit is
36 paid.

37 (f) On and after January 1, 2000, and until January 1,
38 2010, all state employees and school members shall be
39 covered by this section.



1 (g) This section shall be repealed on January 1, 2010,
2 unless a later enacted statute, which becomes effective on
3 or before January 1, 2010, deletes or extends that date.

4 SEC. 4. Section 21581 of the Government Code is
5 amended to read:

6 21581. (a) The rate of contribution of a member
7 subject to this article shall include, in addition to his or her
8 normal rate, two dollars (\$2) per month or fraction
9 thereof, or ninety-three cents (\$0.93) for each biweekly
10 payroll period or fraction thereof, where salaries are paid
11 on that basis. Those contributions shall not become a part
12 of a member's accumulated contributions or be treated or
13 administered as normal contributions and shall not be
14 refundable to a member under any circumstances. Those
15 contributions shall be available only for payment of 1959
16 survivor allowances.

17 (b) *Notwithstanding subdivision (a), the total*
18 *monthly premium required for Section 21574.7, as*
19 *determined by the board, shall be offset by the uniform*
20 *amortization of surplus assets within this account.*
21 *Member contributions shall be two dollars (\$2) per*
22 *month until such time as the future required monthly*
23 *premium exceeds four dollars (\$4), and the employer*
24 *shall pay the difference between the total required*
25 *monthly premium and the members contribution. Once*
26 *the total monthly premium required exceeds four dollars*
27 *(\$4), the member and the employer shall evenly share*
28 *the required monthly premium.*

