

AMENDED IN SENATE APRIL 22, 1999

AMENDED IN SENATE APRIL 6, 1999

**SENATE BILL**

**No. 400**

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**Introduced by Senator Ortiz**

February 12, 1999

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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 amended, Ortiz. Public Employees' Retirement System: benefits.

The Public Employees' Retirement Law provides preretirement death benefits for the surviving spouse or children, or both, as specified, of state members and specified school members not covered by the federal Social Security Act and prescribes the member contribution for those benefits. A surviving spouse becomes eligible for certain of these benefits when he or she attains the age of 62 years and meets other specified criteria.

This bill would, on January 1, 2000, and until January 1, 2010, increase those benefits, *and* revise the member contribution rate, ~~and decrease the surviving spouse's eligibility age to 60 years.~~

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

11 (1) The surviving wife or surviving husband of the  
12 member, who has the care of unmarried children,  
13 including stepchildren, of the member who are under 22  
14 years of age, or are incapacitated because of a disability  
15 that began before and has continued without  
16 interruption after attainment of that age.

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

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

22 (4) Each surviving parent of the member.

23 (b) Regardless of the benefit provided by Section  
24 21532 and of the beneficiary designated by the member  
25 under that section, or regardless of the allowance  
26 provided under Section 21546, the following applicable  
27 1959 survivor allowance, under the conditions stated and  
28 from contributions of the state, shall be paid:

29 (1) A surviving spouse who was either continuously  
30 married to the member for at least one year prior to  
31 death, or was married to the member prior to the  
32 occurrence of the injury or onset of the illness that  
33 resulted in death, and has the care of unmarried children,  
34 including stepchildren, of the deceased member who are  
35 under 22 years of age or are so incapacitated, shall be paid  
36 four hundred fifty dollars (\$450) per month if there is one  
37 child or five hundred thirty-eight dollars (\$538) per  
38 month if there are two or more children. If there also are



1 children who are not in the care of the surviving spouse,  
2 the portion of the allowance payable under this  
3 paragraph, assuming that these children were in the care  
4 of the surviving spouse, that is in excess of two hundred  
5 twenty-five dollars (\$225) per month, shall be divided  
6 equally among all those children and payments made to  
7 the spouse and other children, as the case may be.

8 (2) If there is no surviving spouse, or if the surviving  
9 spouse dies or remarries, and if there are unmarried  
10 children, including stepchildren, of the deceased  
11 member who are under 22 years of age or are so  
12 incapacitated, or if there are children not in the care of  
13 the spouse, the children shall be paid an allowance as  
14 follows:

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

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

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

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

38 (4) If there is no surviving spouse or surviving child  
39 who qualifies for a 1959 survivor allowance, or if the  
40 surviving spouse dies or remarries and there is no



1 surviving child, or if the surviving spouse dies or  
2 remarries and the children die or marry or, if not  
3 incapacitated, reach 22 years of age, each of the member's  
4 dependent parents who has attained or attains the age of  
5 62, and who received at least one-half of his or her support  
6 from the member at the time of the member's death, shall  
7 be paid two hundred twenty-five dollars (\$225) per  
8 month.

9 (c) "Stepchildren," for purposes of this section, shall  
10 include only stepchildren of the member living with him  
11 or her in a regular parent-child relationship at the time  
12 of his or her death.

13 (d) This section shall apply to beneficiaries receiving  
14 1959 survivor allowances on July 1, 1975, as well as to  
15 beneficiaries with respect to the death of a state member  
16 occurring on or after July 1, 1975.

17 (e) This section shall apply, with respect to benefits  
18 payable on and after July 1, 1981, to all members  
19 employed by a school employer, and school safety  
20 members employed with a school district or community  
21 college district as defined in subdivision (i) of Section  
22 20057, except that it shall not apply, without contract  
23 amendment, with respect to safety members who  
24 became members after July 1, 1981. All assets and  
25 liabilities of all school employers, and their employees, on  
26 account of benefits provided under this article shall be  
27 pooled into a single account, and a single employer rate  
28 shall be established to provide benefits under this section  
29 on account of all miscellaneous members employed by a  
30 school employer and all safety members who are  
31 members on July 1, 1981.

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

35 (g) A contracting agency may, by amending its  
36 contract, elect to make this section applicable to local  
37 members employed by the agency.

38 (h) On and after January 1, 2000, and until January 1,  
39 2010, all state members covered by this section shall be  
40 covered by the benefit provided under Section 21574.7.



1 On and after January 1, 2010, all state members not  
2 covered by Section 21573 or 21574.7 shall be covered by  
3 this section.

4 SEC. 2. Section 21573 of the Government Code is  
5 amended to read:

6 21573. (a) In lieu of benefits provided in Section  
7 21571 or Section 21572, if the death benefit provided by  
8 Section 21532 is payable on account of a state member's  
9 death that occurs under circumstances other than those  
10 described in subparagraph (F) of paragraph (1) of  
11 subdivision (a) of Section 21530, or if an allowance under  
12 Section 21546 is payable, the payment pursuant to  
13 subdivision (b) shall be made in the following order of  
14 priority:

15 (1) The surviving wife or surviving husband of the  
16 member, who has the care of unmarried children,  
17 including stepchildren, of the member who are under 22  
18 years of age, or are incapacitated because of a disability  
19 that began before and has continued without  
20 interruption after attainment of that age.

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

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

26 (4) Each surviving parent of the member.

27 (b) Regardless of the benefit provided by Section  
28 21532 and of the beneficiary designated by the member  
29 under that section, or regardless of the allowance  
30 provided under Section 21546, the following applicable  
31 1959 survivor allowance, under the conditions stated and  
32 from contributions of the state, shall be paid:

33 (1) A surviving spouse who was either continuously  
34 married to the member for at least one year prior to  
35 death, or who was married to the member prior to the  
36 occurrence of the injury or onset of the illness that  
37 resulted in death, and has the care of unmarried children,  
38 including stepchildren, of the deceased member who are  
39 under 22 years of age or are so incapacitated, shall be paid  
40 seven hundred dollars (\$700) per month if there is one



1 child, or eight hundred forty dollars (\$840) per month if  
2 there are two or more children. If there also are children  
3 who are not in the care of the surviving spouse, the  
4 portion of the allowance payable under this paragraph,  
5 assuming that these children were in the care of the  
6 surviving spouse, that is in excess of three hundred fifty  
7 dollars (\$350) per month, shall be divided equally among  
8 all those children and payments made to the spouse and  
9 other children, as the case may be.

10 (2) If there is no surviving spouse, or if the surviving  
11 spouse dies or remarries, and if there are unmarried  
12 children, including stepchildren, of the deceased  
13 member who are under 22 years of age or are so  
14 incapacitated, or if there are children not in the care of  
15 the spouse, the children shall be paid an allowance as  
16 follows:

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

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

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

25 (3) A surviving spouse who has attained or attains the  
26 age of 62 years, and, with respect to that surviving spouse,  
27 who was either continuously married to the member for  
28 at least one year prior to death, or who was married to the  
29 member prior to the occurrence of the injury or onset of  
30 the illness that resulted in death and has not remarried  
31 subsequent to the member's death, shall be paid three  
32 hundred fifty dollars (\$350) per month. No allowance  
33 shall be paid under this paragraph while the surviving  
34 spouse is receiving an allowance under paragraph (1) or  
35 while an allowance is being paid under subparagraph (C)  
36 of paragraph (2). The allowance paid under this  
37 paragraph shall be one hundred forty dollars (\$140) per  
38 month while an allowance is being paid under  
39 subparagraph (B) of paragraph (2).



1 (4) If there is no surviving spouse or surviving child  
2 who qualifies for the 1959 survivor allowance, or if the  
3 surviving spouse dies or remarries and there is no  
4 surviving child, or if the surviving spouse dies or  
5 remarries and the children die or marry or, if not  
6 incapacitated, reach 22 years of age, each of the member's  
7 dependent parents who has attained or attains the age of  
8 62 years, and who received at least one-half of his or her  
9 support from the member at the time of the member's  
10 death, shall be paid three hundred fifty dollars (\$350) per  
11 month.

12 (c) "Stepchildren," for purposes of this section, shall  
13 include only stepchildren of the member living with the  
14 member in a regular parent-child relationship at the time  
15 of the death of the member.

16 (d) This section shall apply to beneficiaries of state  
17 members whose death occurred before January 1, 1985.  
18 Where a surviving spouse attained the age of 62 years  
19 prior to January 1, 1987, entitlement shall exist retroactive  
20 to January 1, 1985, or to his or her 62nd birthday,  
21 whichever is later. All assets and liabilities of all state  
22 agencies and their employees on account of benefits  
23 provided to beneficiaries specified in this subdivision  
24 shall be pooled into a single account. The board shall  
25 transfer from the reserve for 1959 survivor contributions  
26 retained in the retirement fund, an amount sufficient to  
27 pay the cost of the increased benefits provided by this  
28 subdivision for beneficiaries of members who died on or  
29 before December 31, 1984.

30 (e) This section shall not apply to beneficiaries with  
31 respect to the death of a state member, except as  
32 provided in subdivision (i), occurring on or after January  
33 1, 1985, unless provided for in a memorandum of  
34 understanding reached pursuant to Section 3517.5, or  
35 authorized by the Director of Personnel Administration  
36 for classifications of state employees that are excluded  
37 from, or not subject to, collective bargaining. The  
38 memorandum of understanding adopting this section  
39 shall be controlling without further legislative action,  
40 except that if those provisions of a memorandum of



1 understanding require the expenditure of funds, those  
2 provisions shall not become effective unless approved by  
3 the Legislature as provided by law.

4 (f) This section shall apply, with respect to benefits  
5 payable on and after January 1, 1985, to school members  
6 and to school safety members, as defined in Section 20444.  
7 All assets and liabilities of all school employers, and their  
8 employees, on account of benefits provided under this  
9 article shall be pooled into a single account, and a single  
10 employer rate shall be established to provide benefits  
11 under this section on account of school members  
12 employed by a school employer.

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

35 (h) The rate of contribution of an employer subject to  
36 this section shall be figured using the term insurance  
37 valuation method. If a contracting agency that is subject  
38 to this section has a surplus in its 1959 survivor benefit  
39 account as of the date the contracting agency becomes  
40 subject to this section, the surplus shall be applied to



1 reduce its rate of contribution. If a contracting agency  
2 that is subject to this section has a deficit in its 1959  
3 survivor benefit account as of the date the contracting  
4 agency becomes subject to this section, its rate of  
5 contribution shall be increased until the deficit is paid.

6 (i) This section shall not apply to beneficiaries with  
7 respect to the death of a state member employed by the  
8 California State University occurring on or after January  
9 1, 1988, unless provided for in a memorandum of  
10 understanding reached pursuant to Chapter 12  
11 (commencing with Section 3560) of Division 4 of Title 1,  
12 or authorized by the Trustees of the California State  
13 University for employees excluded from collective  
14 bargaining. The memorandum of understanding shall be  
15 controlling without further legislative action, except that  
16 if the provisions of a memorandum of understanding  
17 require the expenditure of funds, the provisions shall not  
18 become effective unless approved by the Legislature in  
19 the annual Budget Act.

20 (j) On and after January 1, 2000, and until January 1,  
21 2010, all state and school members covered by this section  
22 shall be covered by the benefit provided under Section  
23 21574.7. On and after January 1, 2010, all state and school  
24 members not covered by Section 21572 or 21574.7 shall be  
25 covered by this section.

26 SEC. 3. Section 21574.7 is added to the Government  
27 Code, to read:

28 21574.7. (a) In lieu of benefits provided in Section  
29 21571, 21572, 21573, or 21574, if the death benefit provided  
30 by Section 21532 is payable on account of a state  
31 member's death that occurs under circumstances other  
32 than those described in subparagraph (F) of paragraph  
33 (1) of subdivision (a) of Section 21530, or if an allowance  
34 under Section 21546 is payable, the payment pursuant to  
35 subdivision (b) shall be made in the following order of  
36 priority:

37 (1) The surviving spouse of the member, who has the  
38 care of unmarried children, including stepchildren, of the  
39 member who are under 22 years of age, or are  
40 incapacitated because of a disability that began before



1 and has continued without interruption after the  
2 attainment of that age.

3 (2) The guardian of surviving unmarried children,  
4 including stepchildren, of the member who are 22 years  
5 of age or are so incapacitated.

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

8 (4) Each surviving parent of the member.

9 (b) Regardless of the benefit provided by Section  
10 21532 and of the beneficiary designated by the member  
11 under that section, or regardless of the allowance  
12 provided under Section 21546, the following applicable  
13 1959 survivor allowance, under the conditions stated and  
14 from contributions of the employer, shall be paid:

15 (1) A surviving spouse who was either continuously  
16 married to the member for at least one year prior to  
17 death, or was married to the member prior to the  
18 occurrence of the injury or onset of the illness that  
19 resulted in death, and has the care of unmarried children,  
20 including stepchildren, of the deceased member who are  
21 under 22 years of age or are so incapacitated, shall be paid  
22 one thousand five hundred dollars (\$1,500) per month if  
23 there is one child or one thousand eight hundred dollars  
24 (\$1,800) per month if there are two or more children. If  
25 there also are children who are not in the care of the  
26 surviving spouse, the portion of the allowance payable  
27 under this paragraph, assuming that these children were  
28 in the care of the surviving spouse, that is in excess of  
29 seven hundred fifty dollars (\$750) per month, shall be  
30 divided equally among all those children and payments  
31 made to the spouse and other children, as the case may  
32 be.

33 (2) If there is no surviving spouse, or if the surviving  
34 spouse dies, and if there are unmarried children,  
35 including stepchildren, of the deceased member who are  
36 under 22 years of age or are so incapacitated, or if there  
37 are children not in the care of the spouse, the children  
38 shall be paid an allowance as follows:

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



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

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

7 (3) A surviving spouse who has attained or attains the  
8 age of ~~60~~ 62 years, and who was either continuously  
9 married to the member for at least one year prior to  
10 death, or was married to the member prior to the  
11 occurrence of the injury or onset of the illness that  
12 resulted in death, shall be paid seven hundred fifty dollars  
13 (\$750) per month. No allowance shall be paid under this  
14 paragraph while the surviving spouse is receiving an  
15 allowance under paragraph (1) or while an allowance is  
16 being paid under subparagraph (C) of paragraph (2).  
17 The allowance paid under this paragraph shall be three  
18 hundred dollars (\$300) per month while an allowance is  
19 being paid under subparagraph (B) of paragraph (2).

20 (4) If there is no surviving spouse or surviving child  
21 who qualifies for the 1959 survivor allowance, or if the  
22 surviving spouse dies and there is no surviving child, or  
23 if the surviving spouse dies and the children die or marry  
24 or, if not incapacitated, reach 22 years of age, each of the  
25 member's dependent parents who has attained or attains  
26 the age of ~~60~~ 62 years, and who received at least one-half  
27 of his or her support from the member at the time of the  
28 member's death, shall be paid seven hundred fifty dollars  
29 (\$750) per month.

30 (c) "Stepchildren," for purposes of this section, shall  
31 include only stepchildren of the member living with the  
32 member in a regular parent-child relationship at the time  
33 of the death of the member.

34 (d) This section shall only apply to state and school  
35 members effective on or after January 1, 1999. All assets  
36 and liabilities of employers subject to this section, and  
37 their employees, on account of benefits provided under  
38 this article shall be pooled into a single account, and a  
39 single employer rate shall be established to provide



1 benefits under this section on account of state and school  
2 members employed by the state or a school employer.

3 (e) The rate of contribution of an employer subject to  
4 this section shall be calculated using a method  
5 determined by the board. Surplus assets shall be applied  
6 to reduce the rate of contribution. If a deficit exists, the  
7 rate of contribution shall be increased until the deficit is  
8 paid.

9 (f) On and after January 1, 2000, and until January 1,  
10 2010, all state employees and school members shall be  
11 covered by this section.

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

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

17 21581. (a) The rate of contribution of a member  
18 subject to this article shall include, in addition to his or her  
19 normal rate, two dollars (\$2) per month or fraction  
20 thereof, or ninety-three cents (\$0.93) for each biweekly  
21 payroll period or fraction thereof, where salaries are paid  
22 on that basis. Those contributions shall not become a part  
23 of a member's accumulated contributions or be treated or  
24 administered as normal contributions and shall not be  
25 refundable to a member under any circumstances. Those  
26 contributions shall be available only for payment of 1959  
27 survivor allowances.

28 (b) Notwithstanding subdivision (a), the total  
29 monthly premium required for Section 21574.7, as  
30 determined by the board, shall be offset by the uniform  
31 amortization of surplus assets within this account.  
32 Member contributions shall be two dollars (\$2) per  
33 month until such time as the future required monthly  
34 premium exceeds four dollars (\$4), and the employer  
35 shall pay the difference between the total required  
36 monthly premium and the member's contribution. Once  
37 the total required monthly premium exceeds four dollars



1 (\$4), the member and the employer shall evenly share  
2 the required monthly premium.

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