

AMENDED IN ASSEMBLY MAY 19, 1999

AMENDED IN SENATE APRIL 22, 1999

AMENDED IN SENATE APRIL 6, 1999

SENATE BILL

No. 400

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 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 ~~62~~ 60 years, and who was either continuously
9 married to the member for at least one year prior to the
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 ~~62~~ 60 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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