

Senate Bill No. 2008

Passed the Senate May 18, 2000

Secretary of the Senate

Passed the Assembly August 10, 2000

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 31787.5 of, to add Section 31452.7 to, and to repeal and add Section 31787 of, the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 2008, Solis. County employees' retirement law: benefits.

The existing County Employees Retirement Law of 1937 provides for the payment of allowances to retired members and to survivors, as specified. Under existing probate law, upon the death of a retired member or a person receiving a survivor's allowance, any allowance earned but unpaid as of the date of death becomes a part of the decedent's estate.

This bill would provide that, upon the death of a person receiving a retirement or survivor's allowance, any allowance earned but unpaid as of the date of death shall be paid to the decedent's designated beneficiary.

The existing County Employees Retirement Law of 1937 prescribes disability retirement benefits for any member who has completed a specified number of years of service and is permanently incapacitated as a result of injury or disease arising out of and in the course of employment. Existing law also provides an optional death allowance, equal to 50% of the member's final compensation, that is payable to the spouse or minor children, or both, of a member who dies prior to retirement as the result of such an injury or disease.

This bill would delete those provisions relating to the optional death allowance and would instead provide that, if the member dies as the result of such an injury or disease and would have been eligible for disability retirement as of the date of death, the optional death allowance shall be equal to the monthly disability retirement allowance the member would have received. The bill would make a related technical change.



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

SECTION 1. Section 31452.7 is added to the Government Code, to read:

31452.7. (a) Upon the death of any member after retirement, any retirement allowance earned but not yet paid to the member shall, notwithstanding any other provision of law, be paid to the member's designated beneficiary.

(b) Upon the death of any person receiving a survivor's allowance under this chapter, any allowance earned but not yet paid to the survivor shall, notwithstanding any other provision of law, be paid to the survivor's designated beneficiary.

SEC. 2. Section 31787 of the Government Code is repealed.

SEC. 3. Section 31787 is added to the Government Code, to read:

31787. (a) If any member who would have been entitled to a service-connected disability retirement dies prior to retirement as the result of injury or disease arising out of and in the course of the member's employment, and the member leaves a surviving spouse, that spouse shall have the right to elect, by written notice filed with the board, to receive and be paid in lieu of the death benefit provided for in Sections 31780 and 31781, an optional death allowance as provided in this section.

(b) The optional death allowance shall consist of a monthly payment equal to the monthly retirement allowance to which the member would have been entitled if the member had retired or been retired by reason of a service-connected disability as of the date of death.

(c) If the surviving spouse elects to receive the optional death allowance, the payments becoming due to the spouse shall be retroactive to the date of the member's death and shall continue during and throughout the life of the spouse.

(d) If the surviving spouse elects to receive the optional death allowance, and thereafter dies leaving an



unmarried surviving child or unmarried children of the deceased member under the age of 18 years, the optional death allowance shall thereafter be paid to those surviving children collectively until they die, marry, or reach the age of 18 years; provided, however, that the right of any of those children respectively to share in the allowance shall cease upon their death or marriage or upon their reaching the age of 18 years, and the entire amount of the allowance shall thereafter be paid collectively to the remaining qualified children.

(e) If the deceased member leaves no surviving spouse but leaves unmarried children under the age of 18 years, the legally appointed guardian of those children shall make the election herein provided for on behalf of the surviving children as in the guardian's judgment may appear to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

(f) The rights and privileges conferred by this section upon the surviving spouse and children of a deceased member, or any of them, shall not be dependent upon whether they or any of them shall have been nominated by the deceased member as the beneficiary of any benefits payable upon or by reason of the member's death, but shall be superior to and shall supersede the rights and claims of any other beneficiary so nominated.

(g) Notwithstanding any other provision of this section, the benefits otherwise payable to the children of the member shall be paid to those children through the age of 21 years if those children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

SEC. 4. Section 31787.5 of the Government Code is amended to read:

31787.5. (a) A surviving spouse of a member who is killed in the performance of duty or who dies as the result of an accident or an injury caused by external violence or physical force, incurred in the performance of the member's duty, now or hereafter entitled to receive a death allowance under Section 31787, shall be paid an



additional amount for each of the member's children during the lifetime of the child, or until the child marries or reaches the age of 18 years, as follows, subject to the limitation in subdivision (b):

(1) For one child, twenty-five percent (25%) of the allowance provided in Section 31787.

(2) For two children, forty percent (40%) of the allowance provided in Section 31787.

(3) For three or more children, fifty percent (50%) of the allowance provided in Section 31787.

(b) If a benefit payable under this section, when added to a benefit payable under Section 31787, exceeds the maximum benefit payable by a tax-qualified pension plan under the Internal Revenue Code (26 U.S.C.A. Sec. 401 et. seq.), the benefit payable under this section shall be reduced to the amount required to meet that benefit limit.

(c) If the surviving spouse does not have legal custody of the member's children, the allowance provided by this section shall be payable to the person to whom custody of the children has been awarded by a court of competent jurisdiction for each child during the lifetime of the child, or until the child marries or reaches the age of 18 years.

(d) The allowance provided by this section shall be payable to the surviving spouses of members whose duties consist of active law enforcement or active fire suppression or any other class or group of members as the retirement board shall fix.

(e) Any child whose eligibility for an allowance pursuant to this section commenced on or after October 1, 1965, shall lose that eligibility effective on the date of his or her adoption.

(f) This section shall become operative in any county, which has adopted the provisions of this chapter but which has not previously adopted the provisions of this section on October 1, 1965. Each surviving spouse of a member or other person having legal custody of a member's child or children who is paid an additional amount for each of the member's children because of the amendments to this section enacted at the 1965 or 1967



Regular Session shall receive those payments as they accrue from and after October 1 of the year during which this section was amended to provide for the payment to him or her of that allowance, but the surviving spouse or other person shall not be given a claim for any increase in those benefits for a time prior to that date.

(g) Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children through the age of 21 years if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.



Approved _____, 2000

Governor

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