

Assembly Bill No. 384

CHAPTER 255

An act to amend Section 22820 of the Government Code, relating to firefighters, and making an appropriation therefor.

[Approved by Governor September 29, 2007. Filed with
Secretary of State September 29, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 384, Portantino. Firefighters.

The Public Employees' Medical and Hospital Care Act provides continuing health benefit coverage to the surviving spouse, as defined, or eligible family member of a firefighter or peace officer who dies as a result of an injury or disease sustained in the line of duty. Contributions paid by those persons and the state are deposited into one of 2 continuously appropriated funds to provide that coverage.

This bill would enact the California Fallen Federal Firefighter Survivor Assistance Act of 2007, which would extend that health benefit coverage to the surviving spouse, as defined, or eligible family member of a firefighter employed by the federal government who was a resident of, and whose regular duty assignment was to perform firefighting services in, this state, and who dies as a result of an injury or disease sustained in the line of duty. By extending that coverage to those survivors, the bill would increase the contributions to continuously appropriated funds, thereby making an appropriation.

Appropriation: yes.

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

SECTION 1. This act shall be known and may be cited as the California Fallen Federal Firefighter Survivor Assistance Act of 2007.

SEC. 2. The Legislature finds and declares all of the following:

(a) Five of the state's finest and bravest gave their lives in the line of duty last fall battling to protect a home in the midst of the blistering Esperanza Fire near Cabazon in Riverside County.

(b) Captain Mark Loutzenhiser and Engine Operators Jess McLean, Jason McKay, Daniel Hoover-Najera, and Pablo Cerda died after their engine was burned over while battling the wind-whipped fire, which grew to more than 24,000 acres in just 24 hours.

(c) Of the five fallen firefighters, both Captain Loutzenhiser and Engine Operator McLean were career civilian federal firefighters who resided in

California, served on Engine 57 at the San Jacinto Ranger Station in Idyllwild, and left behind surviving family members.

(d) When a firefighter makes the ultimate sacrifice for the public's safety, his or her family also makes a huge sacrifice in the lost years of love and support. A fallen firefighter's family is also left behind with a multitude of uncertainties that accompany their grief and sorrow.

(e) When a firefighter is killed in the line of duty, he or she not only leaves behind a family who must suffer the loss of a loved one, but also a family that may be faced with a severe financial squeeze. This financial loss can take a terrible toll on the surviving family's pocketbook and ultimately makes the cost of acquiring adequate health insurance virtually impossible.

(f) The existing state-funded program to assist uninsured spouses and children of fallen firefighters and police officers in purchasing medical and dental benefits was intended to apply to any surviving uninsured spouse or child of a fallen California firefighter.

(g) It is the intent of the Legislature to clarify that Section 22820 of the Government Code applies to those survivors of California federal firefighters killed in the line of duty.

SEC. 3 Section 22820 of the Government Code is amended to read:

22820. (a) Upon the death, on or after January 1, 2002, of a firefighter employed by a county, city, city and county, district, or other political subdivision of the state, a firefighter employed by the Department of Forestry and Fire Protection, a firefighter employed by the federal government who was a resident of this state and whose regular duty assignment was to perform firefighting services within this state, or a peace officer as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5, 830.55, or 830.6 of the Penal Code, if the death occurred as a result of injury or disease arising out of and in the course of his or her official duties, the surviving spouse or other eligible family member of the deceased firefighter or peace officer, if uninsured, is deemed to be an annuitant under Section 22760 for purposes of enrollment. All eligible family members of the deceased firefighter or peace officer who are uninsured may enroll in a health benefit plan of the surviving spouse's choice. However, an unmarried child of the surviving spouse is not eligible to enroll in a health benefit plan under this section if the child was not a family member under Section 22775 and regulations pertinent thereto prior to the firefighter's or peace officer's date of death. The employer of the deceased firefighter or peace officer shall notify the board within 10 days of the death of the employee if a spouse or family member may be eligible for enrollment in a health benefit plan under this section.

(b) Upon notification, the board shall promptly determine eligibility and shall forward to the eligible spouse or family member the materials necessary for enrollment. In the event of a dispute regarding whether a firefighter's or peace officer's death occurred as a result of injury or disease arising out of and in the course of his or her official duties as required under subdivision (a), that dispute shall be determined by the Workers' Compensation Appeals Board, subject to the same procedures and standards applicable to hearings

relating to claims for workers' compensation benefits. The jurisdiction of the Workers' Compensation Appeals Board under this section is limited to the sole issue of industrial causation and this section does not authorize the Workers' Compensation Appeals Board to award costs against the system.

(c) (1) Notwithstanding any other provision of law, and except as otherwise provided in subdivision (d), the state shall pay the employer contribution required for enrollment under this part for the uninsured surviving spouse of a deceased firefighter or peace officer for life, and the other uninsured eligible family members of a deceased firefighter or peace officer, provided the family member meets the eligibility requirements of Section 22775 and regulations pertinent thereto.

(2) The contribution payable by the state for each uninsured surviving spouse and other uninsured eligible family members shall be adjusted annually and be equal to the amount specified in Section 22871.

(3) The state's contribution under this section shall commence on the effective date of enrollment of the uninsured surviving spouse or other uninsured eligible family members. The contribution of each surviving spouse and eligible family member shall be the total cost per month of the benefit coverage afforded him or her under the plan less the portion contributed by the state pursuant to this section.

(d) The cancellation of coverage by an annuitant, as defined in this section, shall be final without option to reenroll, unless coverage is canceled because of enrollment in an insurance plan from another source.

(e) For purposes of this section, "surviving spouse" means a husband or wife who was married to the deceased firefighter or peace officer on the deceased's date of death and either for a continuous period of at least one year prior to the date of death or prior to the date the deceased firefighter or peace officer sustained the injury or disease resulting in death.

(f) For purposes of this section, "uninsured" means that the surviving spouse is not enrolled in an employer-sponsored health plan under which the employer contribution covers 100 percent of the cost of health care premiums.

(g) The board has no duty to identify, locate, or notify any surviving spouse or eligible family member who may be or may become eligible for benefits under this section.

SEC. 4. It is the intent of the Legislature that this act be construed as declaratory of existing law.