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**SUBSTITUTE HOUSE BILL 1194**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** House Labor (originally sponsored by Representatives Kirby, Holy, Van De Wege, Hayes, Stokesbary, Fitzgibbon, and Bergquist; by request of LEOFF Plan 2 Retirement Board)

READ FIRST TIME 02/12/15.

1           AN ACT Relating to the death benefits of a surviving spouse of a  
2 member of the law enforcement officers' and firefighters' retirement  
3 system or the state patrol retirement system; and amending RCW  
4 41.26.510 and 43.43.285.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6           **Sec. 1.** RCW 41.26.510 and 2010 c 261 s 1 are each amended to  
7 read as follows:

8           (1) Except as provided in RCW 11.07.010, if a member or a vested  
9 member who has not completed at least ten years of service dies, the  
10 amount of the accumulated contributions standing to such member's  
11 credit in the retirement system at the time of such member's death,  
12 less any amount identified as owing to an obligee upon withdrawal of  
13 accumulated contributions pursuant to a court order filed under RCW  
14 41.50.670, shall be paid to the member's estate, or such person or  
15 persons, trust, or organization as the member shall have nominated by  
16 written designation duly executed and filed with the department. If  
17 there be no such designated person or persons still living at the  
18 time of the member's death, such member's accumulated contributions  
19 standing to such member's credit in the retirement system, less any  
20 amount identified as owing to an obligee upon withdrawal of  
21 accumulated contributions pursuant to a court order filed under RCW

1 41.50.670, shall be paid to the member's surviving spouse or domestic  
2 partner as if in fact such spouse or domestic partner had been  
3 nominated by written designation, or if there be no such surviving  
4 spouse or domestic partner, then to such member's legal  
5 representatives.

6 (2) Except as provided in subsection (4) of this section, if a  
7 member who is killed in the course of employment or a member who is  
8 eligible for retirement or a member who has completed at least ten  
9 years of service dies, the surviving spouse, domestic partner, or  
10 eligible child or children shall elect to receive either:

11 (a) A retirement allowance computed as provided for in RCW  
12 41.26.430, actuarially reduced by the amount of any lump sum benefit  
13 identified as owing to an obligee upon withdrawal of accumulated  
14 contributions pursuant to a court order filed under RCW 41.50.670 and  
15 actuarially adjusted to reflect a joint and one hundred percent  
16 survivor option under RCW 41.26.460 and if the member was not  
17 eligible for normal retirement at the date of death a further  
18 reduction as described in RCW 41.26.430; if a surviving spouse or  
19 domestic partner who is receiving a retirement allowance dies leaving  
20 a child or children of the member under the age of majority, then  
21 such child or children shall continue to receive an allowance in an  
22 amount equal to that which was being received by the surviving spouse  
23 or domestic partner, share and share alike, until such child or  
24 children reach the age of majority; if there is no surviving spouse  
25 or domestic partner eligible to receive an allowance at the time of  
26 the member's death, such member's child or children under the age of  
27 majority shall receive an allowance share and share alike calculated  
28 as herein provided making the assumption that the ages of the spouse  
29 or domestic partner and member were equal at the time of the member's  
30 death; or

31 (b)(i) The member's accumulated contributions, less any amount  
32 identified as owing to an obligee upon withdrawal of accumulated  
33 contributions pursuant to a court order filed under RCW 41.50.670; or

34 (ii) If the member dies on or after July 25, 1993, one hundred  
35 fifty percent of the member's accumulated contributions, less any  
36 amount identified as owing to an obligee upon withdrawal of  
37 accumulated contributions pursuant to a court order filed under RCW  
38 41.50.670. Any accumulated contributions attributable to restorations  
39 made under RCW 41.50.165(2) shall be refunded at one hundred percent.

1 (3) If a member who is eligible for retirement or a member who  
2 has completed at least ten years of service dies after October 1,  
3 1977, and is not survived by a spouse, domestic partner, or an  
4 eligible child, then the accumulated contributions standing to the  
5 member's credit, less any amount identified as owing to an obligee  
6 upon withdrawal of accumulated contributions pursuant to a court  
7 order filed under RCW 41.50.670, shall be paid:

8 (a) To an estate, a person or persons, trust, or organization as  
9 the member shall have nominated by written designation duly executed  
10 and filed with the department; or

11 (b) If there is no such designated person or persons still living  
12 at the time of the member's death, then to the member's legal  
13 representatives.

14 (4) The retirement allowance of a member who is killed in the  
15 course of employment, as determined by the director of the department  
16 of labor and industries, or the retirement allowance of a member who  
17 has left the employ of an employer due to service in the national  
18 guard or military reserves and dies while honorably serving in the  
19 national guard or military reserves during a period of war as defined  
20 in RCW 41.04.005, is not subject to an actuarial reduction for early  
21 retirement as provided in RCW 41.26.430 or an actuarial reduction to  
22 reflect a joint and one hundred percent survivor option under RCW  
23 41.26.460. The member's retirement allowance is computed under RCW  
24 41.26.420, except that the member shall be entitled to a minimum  
25 retirement allowance equal to ten percent of such member's final  
26 average salary. The member shall additionally receive a retirement  
27 allowance equal to two percent of such member's average final salary  
28 for each year of service beyond five.

29 (5) The retirement allowance paid to the spouse or domestic  
30 partner and dependent children of a member who is killed in the  
31 course of employment, as set forth in RCW 41.05.011(~~((+16+))~~) (5),  
32 shall include reimbursement for any payments of premium rates to the  
33 Washington state health care authority pursuant to RCW 41.05.080.

34 (6) In addition to the benefits provided in subsection (4) of  
35 this section, if the surviving spouse or domestic partner of a member  
36 who is killed in the course of employment is not eligible to receive  
37 industrial insurance payments pursuant to RCW 51.32.050 due to  
38 remarriage, the surviving spouse or domestic partner shall receive an  
39 amount equal to the benefit they would receive pursuant to RCW  
40 51.32.050 but for the remarriage. This subsection applies to

1 surviving spouses and domestic partners whose benefits pursuant to  
2 RCW 51.32.050 were suspended or terminated due to remarriage prior to  
3 the effective date of this section. The monthly payments to any  
4 surviving spouse or domestic partner who received a lump sum payment  
5 pursuant to RCW 51.32.050 shall be actuarially reduced to reflect the  
6 amount of the lump sum payment.

7 **Sec. 2.** RCW 43.43.285 and 2010 c 261 s 7 are each amended to  
8 read as follows:

9 (1) A two hundred fourteen thousand dollar death benefit shall be  
10 paid to the member's estate, or such person or persons, trust or  
11 organization as the member shall have nominated by written  
12 designation duly executed and filed with the department. If there be  
13 no such designated person or persons still living at the time of the  
14 member's death, such member's death benefit shall be paid to the  
15 member's surviving spouse or domestic partner as if in fact such  
16 spouse or domestic partner had been nominated by written designation,  
17 or if there be no such surviving spouse or domestic partner, then to  
18 such member's legal representatives.

19 (2)(a) The benefit under this section shall be paid only where  
20 death occurs as a result of (i) injuries sustained in the course of  
21 employment; or (ii) an occupational disease or infection that arises  
22 naturally and proximately out of employment covered under this  
23 chapter. The determination of eligibility for the benefit shall be  
24 made consistent with Title 51 RCW by the department of labor and  
25 industries. The department of labor and industries shall notify the  
26 department of retirement systems by order under RCW 51.52.050.

27 (b) The retirement allowance paid to the spouse or domestic  
28 partner and dependent children of a member who is killed in the  
29 course of employment, as set forth in RCW 41.05.011(~~((+16+))~~) (5),  
30 shall include reimbursement for any payments of premium rates to the  
31 Washington state health care authority under RCW 41.05.080.

32 (3)(a) Beginning July 1, 2010, and every year thereafter, the  
33 department shall determine the following information:

34 (i) The index for the 2008 calendar year, to be known as "index  
35 A";

36 (ii) The index for the calendar year prior to the date of  
37 determination, to be known as "index B"; and

38 (iii) The ratio obtained when index B is divided by index A.

1 (b) The value of the ratio obtained shall be the annual  
2 adjustment to the original death benefit and shall be applied  
3 beginning every July 1st. In no event, however, shall the annual  
4 adjustment:

5 (i) Produce a benefit which is lower than two hundred fourteen  
6 thousand dollars;

7 (ii) Exceed three percent in the initial annual adjustment; or

8 (iii) Differ from the previous year's annual adjustment by more  
9 than three percent.

10 (c) For the purposes of this section, "index" means, for any  
11 calendar year, that year's average consumer price index —Seattle,  
12 Washington area for urban wage earners and clerical workers, all  
13 items, compiled by the bureau of labor statistics, United States  
14 department of labor.

15 (4) In addition to the survivor benefit payable under RCW  
16 43.43.270 or 43.43.271, if the surviving spouse or domestic partner  
17 of a member whose death occurs as a result of (a) injuries sustained  
18 in the course of employment; or (b) an occupational disease or  
19 infection that arises naturally and proximately out of employment  
20 covered under this chapter is not eligible to receive industrial  
21 insurance payments pursuant to RCW 51.32.050 due to remarriage, the  
22 surviving spouse or domestic partner shall receive an amount equal to  
23 the benefit they would receive pursuant to RCW 51.32.050 but for the  
24 remarriage. This subsection applies to surviving spouses whose  
25 benefits under RCW 51.32.050 were suspended or terminated due to  
26 remarriage prior to the effective date of this section. The monthly  
27 payments to any surviving spouse or domestic partner who received a  
28 lump sum payment pursuant to RCW 51.32.050 shall be actuarially  
29 reduced to reflect the amount of the lump sum payment.

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