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HOUSE BILL 1551

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Conway, Bailey, Crouse, Seaquist, Kenney, Simpson, Morrell, and Ormsby; by request of Select Committee on Pension Policy and LEOFF Plan 2 Retirement Board

Read first time 01/23/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to the survivor benefits of employees who die while  
2 honorably serving in the national guard or military reserves during a  
3 period of war; and amending RCW 41.26.160, 41.26.510, 43.43.270,  
4 43.43.295, 41.32.520, 41.32.805, 41.32.895, 41.35.460, 41.35.710,  
5 41.37.250, 41.40.270, 41.40.700, and 41.40.835.

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

7 **Sec. 1.** RCW 41.26.160 and 2005 c 62 s 1 are each amended to read  
8 as follows:

9 (1) In the event of the duty connected death of any member who is  
10 in active service, or who has vested under the provisions of RCW  
11 41.26.090 with twenty or more service credit years of service, or who  
12 is on duty connected disability leave or retired for duty connected  
13 disability, or upon the death of a member who has left the employ of an  
14 employer due to service in the national guard or military reserves and  
15 dies while honorably serving in the national guard or military reserves  
16 during a period of war as defined in RCW 41.04.005, the surviving  
17 spouse shall become entitled, subject to RCW 41.26.162, to receive a  
18 monthly allowance equal to fifty percent of the final average salary at  
19 the date of death if active, or the amount of retirement allowance the

1 vested member would have received at age fifty, or the amount of the  
2 retirement allowance such retired member was receiving at the time of  
3 death if retired for duty connected disability. The amount of this  
4 allowance will be increased five percent of final average salary for  
5 each child as defined in RCW 41.26.030(7), subject to a maximum  
6 combined allowance of sixty percent of final average salary: PROVIDED,  
7 That if the child or children is or are in the care of a legal  
8 guardian, payment of the increase attributable to each child will be  
9 made to the child's legal guardian or, in the absence of a legal  
10 guardian and if the member has created a trust for the benefit of the  
11 child or children, payment of the increase attributable to each child  
12 will be made to the trust.

13 (2) If at the time of the duty connected death of a vested member  
14 with twenty or more service credit years of service as provided in  
15 subsection (1) of this section or a member retired for duty connected  
16 disability, or at the time of the death of a member who has left the  
17 employ of an employer due to service in the national guard or military  
18 reserves and dies while honorably serving in the national guard or  
19 military reserves during a period of war as defined in RCW 41.04.005,  
20 the surviving spouse has not been lawfully married to such member for  
21 one year prior to retirement or separation from service if a vested  
22 member, the surviving spouse shall not be eligible to receive the  
23 benefits under this section: PROVIDED, That if a member dies as a  
24 result of a disability incurred in the line of duty or while honorably  
25 serving in the national guard or military reserves during a period of  
26 war as defined in RCW 41.04.005, then if he or she was married at the  
27 time he or she was disabled or left the employ of an employer due to  
28 service in the national guard or military reserves during a period of  
29 war as defined in RCW 41.04.005, the surviving spouse shall be eligible  
30 to receive the benefits under this section.

31 (3) If there be no surviving spouse eligible to receive benefits at  
32 the time of such member's duty connected death, then the child or  
33 children of such member shall receive a monthly allowance equal to  
34 thirty percent of final average salary for one child and an additional  
35 ten percent for each additional child subject to a maximum combined  
36 payment, under this subsection, of sixty percent of final average  
37 salary. When there cease to be any eligible children as defined in RCW  
38 41.26.030(7), there shall be paid to the legal heirs of the member the

1 excess, if any, of accumulated contributions of the member at the time  
2 of death over all payments made to survivors on his or her behalf under  
3 this chapter: PROVIDED, That payments under this subsection to  
4 children shall be prorated equally among the children, if more than  
5 one. If the member has created a trust for the benefit of the child or  
6 children, the payment shall be made to the trust.

7 (4) In the event that there is no surviving spouse eligible to  
8 receive benefits under this section, and that there be no child or  
9 children eligible to receive benefits under this section, then the  
10 accumulated contributions shall be paid to the estate of the member.

11 (5) If a surviving spouse receiving benefits under this section  
12 remarries after June 13, 2002, the surviving spouse shall continue to  
13 receive the benefits under this section.

14 (6) If a surviving spouse receiving benefits under the provisions  
15 of this section thereafter dies and there are children as defined in  
16 RCW 41.26.030(7), payment to the spouse shall cease and the child or  
17 children shall receive the benefits as provided in subsection (3) of  
18 this section.

19 (7) The payment provided by this section shall become due the day  
20 following the date of death and payments shall be retroactive to that  
21 date.

22 **Sec. 2.** RCW 41.26.510 and 2006 c 345 s 1 are each amended to read  
23 as follows:

24 (1) Except as provided in RCW 11.07.010, if a member or a vested  
25 member who has not completed at least ten years of service dies, the  
26 amount of the accumulated contributions standing to such member's  
27 credit in the retirement system at the time of such member's death,  
28 less any amount identified as owing to an obligee upon withdrawal of  
29 accumulated contributions pursuant to a court order filed under RCW  
30 41.50.670, shall be paid to the member's estate, or such person or  
31 persons, trust, or organization as the member shall have nominated by  
32 written designation duly executed and filed with the department. If  
33 there be no such designated person or persons still living at the time  
34 of the member's death, such member's accumulated contributions standing  
35 to such member's credit in the retirement system, less any amount  
36 identified as owing to an obligee upon withdrawal of accumulated  
37 contributions pursuant to a court order filed under RCW 41.50.670,

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

4 (2) If a member who is eligible for retirement or a member who has  
5 completed at least ten years of service dies, the surviving spouse or  
6 eligible child or children shall elect to receive either:

7 (a) A retirement allowance computed as provided for in RCW  
8 41.26.430, actuarially reduced by the amount of any lump sum benefit  
9 identified as owing to an obligee upon withdrawal of accumulated  
10 contributions pursuant to a court order filed under RCW 41.50.670 and  
11 actuarially adjusted to reflect a joint and one hundred percent  
12 survivor option under RCW 41.26.460 and if the member was not eligible  
13 for normal retirement at the date of death a further reduction as  
14 described in RCW 41.26.430; if a surviving spouse who is receiving a  
15 retirement allowance dies leaving a child or children of the member  
16 under the age of majority, then such child or children shall continue  
17 to receive an allowance in an amount equal to that which was being  
18 received by the surviving spouse, share and share alike, until such  
19 child or children reach the age of majority; if there is no surviving  
20 spouse eligible to receive an allowance at the time of the member's  
21 death, such member's child or children under the age of majority shall  
22 receive an allowance share and share alike calculated as herein  
23 provided making the assumption that the ages of the spouse and member  
24 were equal at the time of the member's death; or

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

28 (ii) If the member dies on or after July 25, 1993, one hundred  
29 fifty percent of the member's accumulated contributions, less any  
30 amount identified as owing to an obligee upon withdrawal of accumulated  
31 contributions pursuant to a court order filed under RCW 41.50.670. Any  
32 accumulated contributions attributable to restorations made under RCW  
33 41.50.165(2) shall be refunded at one hundred percent.

34 (3) If a member who is eligible for retirement or a member who has  
35 completed at least ten years of service dies after October 1, 1977, and  
36 is not survived by a spouse or an eligible child, then the accumulated  
37 contributions standing to the member's credit, less any amount

1 identified as owing to an obligee upon withdrawal of accumulated  
2 contributions pursuant to a court order filed under RCW 41.50.670,  
3 shall be paid:

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

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

10 (4) The retirement allowance of a member who is killed in the  
11 course of employment, as determined by the director of the department  
12 of labor and industries, or the retirement allowance of a member who  
13 has left the employ of an employer due to service in the national guard  
14 or military reserves and dies while honorably serving in the national  
15 guard or military reserves during a period of war as defined in RCW  
16 41.04.005, is not subject to an actuarial reduction. The member's  
17 retirement allowance is computed under RCW 41.26.420.

18 (5) The retirement allowance paid to the spouse and dependent  
19 children of a member who is killed in the course of employment, as set  
20 forth in RCW 41.05.011(14), shall include reimbursement for any  
21 payments of premium rates to the Washington state health care authority  
22 pursuant to RCW 41.05.080.

23 **Sec. 3.** RCW 43.43.270 and 2006 c 94 s 1 are each amended to read  
24 as follows:

25 For members commissioned prior to January 1, 2003:

26 (1) The normal form of retirement allowance shall be an allowance  
27 which shall continue as long as the member lives.

28 (2) If a member should die while in service, or a member leaves the  
29 employ of the employer due to service in the national guard or military  
30 reserves and dies while honorably serving in the national guard or  
31 military reserves during a period of war as defined in RCW 41.04.005,  
32 the member's lawful spouse shall be paid an allowance which shall be  
33 equal to fifty percent of the average final salary of the member. If  
34 the member should die after retirement the member's lawful spouse shall  
35 be paid an allowance which shall be equal to the retirement allowance  
36 then payable to the member or fifty percent of the final average salary  
37 used in computing the member's retirement allowance, whichever is less.

1 The allowance paid to the lawful spouse shall continue as long as the  
2 spouse lives: PROVIDED, That if a surviving spouse who is receiving  
3 benefits under this subsection marries another member of this  
4 retirement system who subsequently predeceases such spouse, the spouse  
5 shall then be entitled to receive the higher of the two survivors'  
6 allowances for which eligibility requirements were met, but a surviving  
7 spouse shall not receive more than one survivor's allowance from this  
8 system at the same time under this subsection. To be eligible for an  
9 allowance the lawful surviving spouse of a retired member shall have  
10 been married to the member prior to the member's retirement and  
11 continuously thereafter until the date of the member's death or shall  
12 have been married to the retired member at least two years prior to the  
13 member's death. The allowance paid to the lawful spouse may be divided  
14 with an ex spouse of the member by a dissolution order as defined in  
15 RCW 41.50.500(3) incident to a divorce occurring after July 1, 2002.  
16 The dissolution order must specifically divide both the member's  
17 benefit and any spousal survivor benefit, and must fully comply with  
18 RCW 41.50.670 and 41.50.700.

19 (3) If a member should die, either while in service or after  
20 retirement, the member's surviving unmarried children under the age of  
21 eighteen years shall be provided for in the following manner:

22 (a) If there is a surviving spouse, each child shall be entitled to  
23 a benefit equal to five percent of the final average salary of the  
24 member or retired member. The combined benefits to the surviving  
25 spouse and all children shall not exceed sixty percent of the final  
26 average salary of the member or retired member; and

27 (b) If there is no surviving spouse or the spouse should die, the  
28 child or children shall be entitled to a benefit equal to thirty  
29 percent of the final average salary of the member or retired member for  
30 one child and an additional ten percent for each additional child. The  
31 combined benefits to the children under this subsection shall not  
32 exceed sixty percent of the final average salary of the member or  
33 retired member. Payments under this subsection shall be prorated  
34 equally among the children, if more than one.

35 (4) If a member should die in the line of duty while employed by  
36 the Washington state patrol, or a member leaves the employ of the  
37 employer due to service in the national guard or military reserves and  
38 dies while honorably serving in the national guard or military reserves

1 during a period of war as defined in RCW 41.04.005, the member's  
2 surviving children under the age of twenty years and eleven months if  
3 attending any high school, college, university, or vocational or other  
4 educational institution accredited or approved by the state of  
5 Washington shall be provided for in the following manner:

6 (a) If there is a surviving spouse, each child shall be entitled to  
7 a benefit equal to five percent of the final average salary of the  
8 member. The combined benefits to the surviving spouse and all children  
9 shall not exceed sixty percent of the final average salary of the  
10 member;

11 (b) If there is no surviving spouse or the spouse should die, the  
12 unmarried child or children shall be entitled to receive a benefit  
13 equal to thirty percent of the final average salary of the member or  
14 retired member for one child and an additional ten percent for each  
15 additional child. The combined benefits to the children under this  
16 subsection shall not exceed sixty percent of the final average salary.  
17 Payments under this subsection shall be prorated equally among the  
18 children, if more than one; and

19 (c) If a beneficiary under this subsection reaches the age of  
20 twenty-one years during the middle of a term of enrollment the benefit  
21 shall continue until the end of that term.

22 (5)(a) The provisions of this section shall apply to members who  
23 have been retired on disability as provided in RCW 43.43.040 if the  
24 officer was a member of the Washington state patrol retirement system  
25 at the time of such disability retirement.

26 (b) For the purposes of this subsection, average final salary as  
27 used in subsection (2) of this section means:

28 (i) For members commissioned prior to January 1, 2003, the average  
29 monthly salary received by active members of the patrol of the rank at  
30 which the member became disabled, during the two years prior to the  
31 death of the disabled member; and

32 (ii) For members commissioned on or after January 1, 2003, the  
33 average monthly salary received by active members of the patrol of the  
34 rank at which the member became disabled, during the five years prior  
35 to the death of the disabled member.

36 (c) The changes to the definitions of average final salary for the  
37 survivors of disabled members in this subsection shall apply  
38 retroactively. The department shall correct future payments to

1 eligible survivors of members disabled prior to June 7, 2006, and, as  
2 soon as administratively practicable, pay each survivor a lump sum  
3 payment reflecting the difference, as determined by the director,  
4 between the survivor benefits previously received by the member, and  
5 those the member would have received under the definitions of average  
6 final salary created in chapter 94, Laws of 2006.

7 **Sec. 4.** RCW 43.43.295 and 2004 c 171 s 1 are each amended to read  
8 as follows:

9 (1) For members commissioned on or after January 1, 2003, except as  
10 provided in RCW 11.07.010, if a member or a vested member who has not  
11 completed at least ten years of service dies, the amount of the  
12 accumulated contributions standing to such member's credit in the  
13 retirement system at the time of such member's death, less any amount  
14 identified as owing to an obligee upon withdrawal of accumulated  
15 contributions pursuant to a court order filed under RCW 41.50.670,  
16 shall be paid to the member's estate, or such person or persons, trust,  
17 or organization as the member shall have nominated by written  
18 designation duly executed and filed with the department. If there be  
19 no such designated person or persons still living at the time of the  
20 member's death, such member's accumulated contributions standing to  
21 such member's credit in the retirement system, less any amount  
22 identified as owing to an obligee upon withdrawal of accumulated  
23 contributions pursuant to a court order filed under RCW 41.50.670,  
24 shall be paid to the member's surviving spouse as if in fact such  
25 spouse had been nominated by written designation, or if there be no  
26 such surviving spouse, then to such member's legal representatives.

27 (2) If a member who is eligible for retirement or a member who has  
28 completed at least ten years of service dies, the surviving spouse or  
29 eligible child or children shall elect to receive either:

30 (a) A retirement allowance computed as provided for in RCW  
31 43.43.260, actuarially reduced, except under subsection (4) of this  
32 section, by the amount of any lump sum benefit identified as owing to  
33 an obligee upon withdrawal of accumulated contributions pursuant to a  
34 court order filed under RCW 41.50.670 and actuarially adjusted to  
35 reflect a joint and one hundred percent survivor option under RCW  
36 43.43.278 and if the member was not eligible for normal retirement at  
37 the date of death a further reduction from age fifty-five or when the



1 member could have attained twenty-five years of service, whichever is  
2 less; if a surviving spouse who is receiving a retirement allowance  
3 dies leaving a child or children of the member under the age of  
4 majority, then such child or children shall continue to receive an  
5 allowance in an amount equal to that which was being received by the  
6 surviving spouse, share and share alike, until such child or children  
7 reach the age of majority; if there is no surviving spouse eligible to  
8 receive an allowance at the time of the member's death, such member's  
9 child or children under the age of majority shall receive an allowance  
10 share and share alike calculated under this section making the  
11 assumption that the ages of the spouse and member were equal at the  
12 time of the member's death; or

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

16 (ii) If the member dies, one hundred fifty percent of the member's  
17 accumulated contributions, less any amount identified as owing to an  
18 obligee upon withdrawal of accumulated contributions pursuant to a  
19 court order filed under RCW 41.50.670. Any accumulated contributions  
20 attributable to restorations made under RCW 41.50.165(2) shall be  
21 refunded at one hundred percent.

22 (3) If a member who is eligible for retirement or a member who has  
23 completed at least ten years of service dies, and is not survived by a  
24 spouse or an eligible child, then the accumulated contributions  
25 standing to the member's credit, less any amount identified as owing to  
26 an obligee upon withdrawal of accumulated contributions pursuant to a  
27 court order filed under RCW 41.50.670, shall be paid:

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

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

34 (4) The retirement allowance of a member who is killed in the  
35 course of employment, as determined by the director of the department  
36 of labor and industries, or the retirement allowance of a member who  
37 has left the employ of an employer due to service in the national guard

1 or military reserves and dies while honorably serving in the national  
2 guard or military reserves during a period of war as defined in RCW  
3 41.04.005, is not subject to an actuarial reduction.

4 **Sec. 5.** RCW 41.32.520 and 2003 c 155 s 1 are each amended to read  
5 as follows:

6 (1) Except as specified in subsection (3) of this section, upon  
7 receipt of proper proofs of death of any member before retirement or  
8 before the first installment of his or her retirement allowance shall  
9 become due his or her accumulated contributions, less any amount  
10 identified as owing to an obligee upon withdrawal of accumulated  
11 contributions pursuant to a court order filed under RCW 41.50.670,  
12 and/or other benefits payable upon his or her death shall be paid to  
13 his or her estate or to such persons, trust, or organization as he or  
14 she shall have nominated by written designation duly executed and filed  
15 with the department. If a member fails to file a new beneficiary  
16 designation subsequent to marriage, divorce, or reestablishment of  
17 membership following termination by withdrawal, lapsation, or  
18 retirement, payment of his or her accumulated contributions, less any  
19 amount identified as owing to an obligee upon withdrawal of accumulated  
20 contributions pursuant to a court order filed under RCW 41.50.670,  
21 and/or other benefits upon death before retirement shall be made to the  
22 surviving spouse, if any; otherwise, to his or her estate. If a member  
23 had established ten or more years of Washington membership service  
24 credit or was eligible for retirement, the beneficiary or the surviving  
25 spouse if otherwise eligible may elect, in lieu of a cash refund of the  
26 member's accumulated contributions, the following survivor benefit plan  
27 actuarially reduced, except under subsection (4) of this section, by  
28 the amount of any lump sum benefit identified as owing to an obligee  
29 upon withdrawal of accumulated contributions pursuant to a court order  
30 filed under RCW 41.50.670:

31 (a) A widow or widower, without a child or children under eighteen  
32 years of age, may elect a monthly payment of fifty dollars to become  
33 effective at age fifty, provided the member had fifteen or more years  
34 of Washington membership service credit. A benefit paid under this  
35 subsection (1)(a) shall terminate at the marriage of the beneficiary.

36 (b) The beneficiary, if a surviving spouse or a dependent (as that

1 term is used in computing the dependent exemption for federal internal  
2 revenue purposes) may elect to receive a joint and one hundred percent  
3 retirement allowance under RCW 41.32.530.

4 (i) In the case of a dependent child the allowance shall continue  
5 until attainment of majority or so long as the department judges that  
6 the circumstances which created his or her dependent status continue to  
7 exist. In any case, if at the time dependent status ceases, an amount  
8 equal to the amount of accumulated contributions of the deceased member  
9 has not been paid to the beneficiary, the remainder shall then be paid  
10 in a lump sum to the beneficiary.

11 (ii) If at the time of death, the member was not then qualified for  
12 a service retirement allowance, the benefit shall be based upon the  
13 actuarial equivalent of the sum necessary to pay the accrued regular  
14 retirement allowance commencing when the deceased member would have  
15 first qualified for a service retirement allowance.

16 (2) If no qualified beneficiary survives a member, at his or her  
17 death his or her accumulated contributions, less any amount identified  
18 as owing to an obligee upon withdrawal of accumulated contributions  
19 pursuant to a court order filed under RCW 41.50.670, shall be paid to  
20 his or her estate, or his or her dependents may qualify for survivor  
21 benefits under benefit plan (1)(b) in lieu of a cash refund of the  
22 members accumulated contributions in the following order: Widow or  
23 widower, guardian of a dependent child or children under age eighteen,  
24 or dependent parent or parents.

25 (3) If a member dies within sixty days following application for  
26 disability retirement under RCW 41.32.550, the beneficiary named in the  
27 application may elect to receive the benefit provided by:

28 (a) This section; or

29 (b) RCW 41.32.550, according to the option chosen under RCW  
30 41.32.530 in the disability application.

31 (4) The retirement allowance of a member who is killed in the  
32 course of employment, as determined by the director of the department  
33 of labor and industries, or the retirement allowance of a member who  
34 has left the employ of an employer due to service in the national guard  
35 or military reserves and dies while honorably serving in the national  
36 guard or military reserves during a period of war as defined in RCW  
37 41.04.005, is not subject to an actuarial reduction. The member's  
38 retirement allowance is computed under RCW 41.32.480.

1       **Sec. 6.** RCW 41.32.805 and 2003 c 155 s 2 are each amended to read  
2 as follows:

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

20       (2) If a member who is eligible for retirement or a member who has  
21 completed at least ten years of service dies, the surviving spouse or  
22 eligible children shall elect to receive either:

23       (a) A retirement allowance computed as provided for in RCW  
24 41.32.765, actuarially reduced by the amount of any lump sum benefit  
25 identified as owing to an obligee upon withdrawal of accumulated  
26 contributions pursuant to a court order filed under RCW 41.50.670 and  
27 actuarially adjusted to reflect a joint and one hundred percent  
28 survivor option under RCW 41.32.785 and, except under subsection (4) of  
29 this section, if the member was not eligible for normal retirement at  
30 the date of death a further reduction as described in RCW 41.32.765; if  
31 a surviving spouse who is receiving a retirement allowance dies leaving  
32 a child or children of the member under the age of majority, then such  
33 child or children shall continue to receive an allowance in an amount  
34 equal to that which was being received by the surviving spouse, share  
35 and share alike, until such child or children reach the age of  
36 majority; if there is no surviving spouse eligible to receive an  
37 allowance at the time of the member's death, such member's child or  
38 children under the age of majority shall receive an allowance share and

1 share alike calculated as herein provided making the assumption that  
2 the ages of the spouse and member were equal at the time of the  
3 member's death; or

4 (b) The member's accumulated contributions, less any amount  
5 identified as owing to an obligee upon withdrawal of accumulated  
6 contributions pursuant to a court order filed under RCW 41.50.670.

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

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

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

20 (4) A member who is killed in the course of employment, as  
21 determined by the director of the department of labor and industries,  
22 or a member who has left the employ of an employer due to service in  
23 the national guard or military reserves and dies while honorably  
24 serving in the national guard or military reserves during a period of  
25 war as defined in RCW 41.04.005, is not subject to an actuarial  
26 reduction under RCW 41.32.765. The member's retirement allowance is  
27 computed under RCW 41.32.760.

28 **Sec. 7.** RCW 41.32.895 and 2003 c 155 s 3 are each amended to read  
29 as follows:

30 (1) If a member dies prior to retirement, the surviving spouse or  
31 eligible child or children shall receive a retirement allowance  
32 computed as provided in RCW 41.32.851 actuarially reduced to reflect a  
33 joint and one hundred percent survivor option and, except under  
34 subsection (2) of this section, if the member was not eligible for  
35 normal retirement at the date of death a further reduction as described  
36 in RCW 41.32.875.

1 If the surviving spouse who is receiving the retirement allowance  
2 dies leaving a child or children under the age of majority, then such  
3 child or children shall continue to receive an allowance in an amount  
4 equal to that which was being received by the surviving spouse, share  
5 and share alike, until such child or children reach the age of  
6 majority.

7 If there is no surviving spouse eligible to receive an allowance at  
8 the time of the member's death, such member's child or children under  
9 the age of majority shall receive an allowance, share and share alike.  
10 The allowance shall be calculated with the assumption that the age of  
11 the spouse and member were equal at the time of the member's death.

12 (2) A member who is killed in the course of employment, as  
13 determined by the director of the department of labor and industries,  
14 or a member who has left the employ of an employer due to service in  
15 the national guard or military reserves and dies while honorably  
16 serving in the national guard or military reserves during a period of  
17 war as defined in RCW 41.04.005, is not subject to an actuarial  
18 reduction under RCW 41.32.875. The member's retirement allowance is  
19 computed under RCW 41.32.840.

20 **Sec. 8.** RCW 41.35.460 and 2003 c 155 s 4 are each amended to read  
21 as follows:

22 (1) Except as provided in RCW 11.07.010, if a member or a vested  
23 member who has not completed at least ten years of service dies, the  
24 amount of the accumulated contributions standing to such member's  
25 credit in the retirement system at the time of such member's death,  
26 less any amount identified as owing to an obligee upon withdrawal of  
27 accumulated contributions pursuant to a court order filed under RCW  
28 41.50.670, shall be paid to the member's estate, or such person or  
29 persons, trust, or organization as the member shall have nominated by  
30 written designation duly executed and filed with the department. If  
31 there be no such designated person or persons still living at the time  
32 of the member's death, such member's accumulated contributions standing  
33 to such member's credit in the retirement system, less any amount  
34 identified as owing to an obligee upon withdrawal of accumulated  
35 contributions pursuant to a court order filed under RCW 41.50.670,  
36 shall be paid to the member's surviving spouse as if in fact such

1 spouse had been nominated by written designation, or if there be no  
2 such surviving spouse, then to such member's legal representatives.

3 (2) If a member who is eligible for retirement or a member who has  
4 completed at least ten years of service dies, the surviving spouse or  
5 eligible child or children shall elect to receive either:

6 (a) A retirement allowance computed as provided for in RCW  
7 41.35.420, actuarially reduced by the amount of any lump sum benefit  
8 identified as owing to an obligee upon withdrawal of accumulated  
9 contributions pursuant to a court order filed under RCW 41.50.670 and  
10 actuarially adjusted to reflect a joint and one hundred percent  
11 survivor option under RCW 41.35.220 and, except under subsection (4) of  
12 this section, if the member was not eligible for normal retirement at  
13 the date of death a further reduction as described in RCW 41.35.420; if  
14 a surviving spouse who is receiving a retirement allowance dies leaving  
15 a child or children of the member under the age of majority, then such  
16 child or children shall continue to receive an allowance in an amount  
17 equal to that which was being received by the surviving spouse, share  
18 and share alike, until such child or children reach the age of  
19 majority; if there is no surviving spouse eligible to receive an  
20 allowance at the time of the member's death, such member's child or  
21 children under the age of majority shall receive an allowance, share  
22 and share alike, calculated as herein provided making the assumption  
23 that the ages of the spouse and member were equal at the time of the  
24 member's death; or

25 (b) The member's accumulated contributions, less any amount  
26 identified as owing to an obligee upon withdrawal of accumulated  
27 contributions pursuant to a court order filed under RCW 41.50.670.

28 (3) If a member who is eligible for retirement or a member who has  
29 completed at least ten years of service dies and is not survived by a  
30 spouse or an eligible child, then the accumulated contributions  
31 standing to the member's credit, less any amount identified as owing to  
32 an obligee upon withdrawal of accumulated contributions pursuant to a  
33 court order filed under RCW 41.50.670, shall be paid:

34 (a) To a person or persons, estate, trust, or organization as the  
35 member shall have nominated by written designation duly executed and  
36 filed with the department; or

37 (b) If there is no such designated person or persons still living

1 at the time of the member's death, then to the member's legal  
2 representatives.

3 (4) A member who is killed in the course of employment, as  
4 determined by the director of the department of labor and industries,  
5 or a member who has left the employ of an employer due to service in  
6 the national guard or military reserves and dies while honorably  
7 serving in the national guard or military reserves during a period of  
8 war as defined in RCW 41.04.005, is not subject to an actuarial  
9 reduction under RCW 41.35.420. The member's retirement allowance is  
10 computed under RCW 41.35.400.

11 **Sec. 9.** RCW 41.35.710 and 2003 c 155 s 5 are each amended to read  
12 as follows:

13 (1) If a member dies prior to retirement, the surviving spouse or  
14 eligible child or children shall receive a retirement allowance  
15 computed as provided in RCW 41.35.620 actuarially reduced to reflect a  
16 joint and one hundred percent survivor option and, except under  
17 subsection (2) of this section, if the member was not eligible for  
18 normal retirement at the date of death a further reduction as described  
19 in RCW 41.35.680.

20 If the surviving spouse who is receiving the retirement allowance  
21 dies leaving a child or children under the age of majority, then such  
22 child or children shall continue to receive an allowance in an amount  
23 equal to that which was being received by the surviving spouse, share  
24 and share alike, until such child or children reach the age of  
25 majority.

26 If there is no surviving spouse eligible to receive an allowance at  
27 the time of the member's death, such member's child or children under  
28 the age of majority shall receive an allowance, share and share alike.  
29 The allowance shall be calculated with the assumption that the age of  
30 the spouse and member were equal at the time of the member's death.

31 (2) A member who is killed in the course of employment, as  
32 determined by the director of the department of labor and industries,  
33 or a member who has left the employ of an employer due to service in  
34 the national guard or military reserves and dies while honorably  
35 serving in the national guard or military reserves during a period of  
36 war as defined in RCW 41.04.005, is not subject to an actuarial



1 reduction under RCW 41.35.680. The member's retirement allowance is  
2 computed under RCW 41.35.620.

3 **Sec. 10.** RCW 41.37.250 and 2005 c 327 s 7 are each amended to read  
4 as follows:

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

22 (2) If a member who is eligible for retirement or a member who has  
23 completed at least ten years of service dies, the surviving spouse or  
24 eligible child or children shall elect to receive either:

25 (a) A retirement allowance computed as provided for in RCW  
26 41.37.210, actuarially reduced by the amount of any lump sum benefit  
27 identified as owing to an obligee upon withdrawal of accumulated  
28 contributions pursuant to a court order filed under RCW 41.50.670 and  
29 actuarially adjusted to reflect a joint and one hundred percent  
30 survivor option under RCW 41.37.170 and, except under subsection (4) of  
31 this section, if the member was not eligible for normal retirement at  
32 the date of death a further reduction as described in RCW 41.37.210; if  
33 a surviving spouse who is receiving a retirement allowance dies leaving  
34 a child or children of the member under the age of majority, then the  
35 child or children shall continue to receive an allowance in an amount  
36 equal to that which was being received by the surviving spouse, share  
37 and share alike, until the child or children reach the age of majority;

1 if there is no surviving spouse eligible to receive an allowance at the  
2 time of the member's death, the member's child or children under the  
3 age of majority shall receive an allowance, share and share alike,  
4 calculated under this section making the assumption that the ages of  
5 the spouse and member were equal at the time of the member's death; or

6 (b) The member's accumulated contributions, less any amount  
7 identified as owing to an obligee upon withdrawal of accumulated  
8 contributions pursuant to a court order filed under RCW 41.50.670.

9 (3) If a member who is eligible for retirement or a member who has  
10 completed at least ten years of service dies and is not survived by a  
11 spouse or an eligible child, then the accumulated contributions  
12 standing to the member's credit, less any amount identified as owing to  
13 an obligee upon withdrawal of accumulated contributions pursuant to a  
14 court order filed under RCW 41.50.670, shall be paid:

15 (a) To a person or persons, estate, trust, or organization as the  
16 member shall have nominated by written designation duly executed and  
17 filed with the department; or

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

20 (4) A member who is killed in the course of employment, as  
21 determined by the director of the department of labor and industries,  
22 or a member who has left the employ of an employer due to service in  
23 the national guard or military reserves and dies while honorably  
24 serving in the national guard or military reserves during a period of  
25 war as defined in RCW 41.04.005, is not subject to reduction under RCW  
26 41.37.210. The member's retirement allowance is computed under RCW  
27 41.37.190.

28 **Sec. 11.** RCW 41.40.270 and 2003 c 155 s 6 are each amended to read  
29 as follows:

30 (1) Except as specified in subsection (4) of this section, should  
31 a member die before the date of retirement the amount of the  
32 accumulated contributions standing to the member's credit in the  
33 employees' savings fund, less any amount identified as owing to an  
34 obligee upon withdrawal of accumulated contributions pursuant to a  
35 court order filed under RCW 41.50.670, at the time of death:

36 (a) Shall be paid to the member's estate, or such person or

1 persons, trust, or organization as the member shall have nominated by  
2 written designation duly executed and filed with the department; or

3 (b) If there be no such designated person or persons still living  
4 at the time of the member's death, or if a member fails to file a new  
5 beneficiary designation subsequent to marriage, remarriage, dissolution  
6 of marriage, divorce, or reestablishment of membership following  
7 termination by withdrawal or retirement, such accumulated  
8 contributions, less any amount identified as owing to an obligee upon  
9 withdrawal of accumulated contributions pursuant to a court order filed  
10 under RCW 41.50.670, shall be paid to the surviving spouse as if in  
11 fact such spouse had been nominated by written designation as  
12 aforesaid, or if there be no such surviving spouse, then to the  
13 member's legal representatives.

14 (2) Upon the death in service, or while on authorized leave of  
15 absence for a period not to exceed one hundred and twenty days from the  
16 date of payroll separation, of any member who is qualified but has not  
17 applied for a service retirement allowance or has completed ten years  
18 of service at the time of death, the designated beneficiary, or the  
19 surviving spouse as provided in subsection (1) of this section, may  
20 elect to waive the payment provided by subsection (1) of this section.  
21 Upon such an election, a joint and one hundred percent survivor option  
22 under RCW 41.40.188, calculated under the retirement allowance  
23 described in RCW 41.40.185 or 41.40.190, whichever is greater,  
24 actuarially reduced, except under subsection (5) of this section, by  
25 the amount of any lump sum benefit identified as owing to an obligee  
26 upon withdrawal of accumulated contributions pursuant to a court order  
27 filed under RCW 41.50.670 shall automatically be given effect as if  
28 selected for the benefit of the designated beneficiary. If the member  
29 is not then qualified for a service retirement allowance, such benefit  
30 shall be based upon the actuarial equivalent of the sum necessary to  
31 pay the accrued regular retirement allowance commencing when the  
32 deceased member would have first qualified for a service retirement  
33 allowance.

34 (3) Subsection (1) of this section, unless elected, shall not apply  
35 to any member who has applied for service retirement in RCW 41.40.180,  
36 as now or hereafter amended, and thereafter dies between the date of  
37 separation from service and the member's effective retirement date,  
38 where the member has selected a survivorship option under RCW

1 41.40.188. In those cases the beneficiary named in the member's final  
2 application for service retirement may elect to receive either a cash  
3 refund, less any amount identified as owing to an obligee upon  
4 withdrawal of accumulated contributions pursuant to a court order filed  
5 under RCW 41.50.670, or monthly payments according to the option  
6 selected by the member.

7 (4) If a member dies within sixty days following application for  
8 disability retirement under RCW 41.40.230, the beneficiary named in the  
9 application may elect to receive the benefit provided by:

10 (a) This section; or

11 (b) RCW 41.40.235, according to the option chosen under RCW  
12 41.40.188 in the disability application.

13 (5) The retirement allowance of a member who is killed in the  
14 course of employment, as determined by the director of the department  
15 of labor and industries, or the retirement allowance of a member who  
16 has left the employ of an employer due to service in the national guard  
17 or military reserves and dies while honorably serving in the national  
18 guard or military reserves during a period of war as defined in RCW  
19 41.04.005, is not subject to an actuarial reduction. The member's  
20 retirement allowance is computed under RCW 41.40.185.

21 **Sec. 12.** RCW 41.40.700 and 2007 c 487 s 8 are each amended to read  
22 as follows:

23 (1) Except as provided in RCW 11.07.010, if a member or a vested  
24 member who has not completed at least ten years of service dies, the  
25 amount of the accumulated contributions standing to such member's  
26 credit in the retirement system at the time of such member's death,  
27 less any amount identified as owing to an obligee upon withdrawal of  
28 accumulated contributions pursuant to a court order filed under RCW  
29 41.50.670, shall be paid to the member's estate, or such person or  
30 persons, trust, or organization as the member shall have nominated by  
31 written designation duly executed and filed with the department. If  
32 there be no such designated person or persons still living at the time  
33 of the member's death, such member's accumulated contributions standing  
34 to such member's credit in the retirement system, less any amount  
35 identified as owing to an obligee upon withdrawal of accumulated  
36 contributions pursuant to a court order filed under RCW 41.50.670,

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

4 (2) If a member who is eligible for retirement or a member who has  
5 completed at least ten years of service dies, the surviving spouse or  
6 eligible child or children shall elect to receive one of the following:

7 (a) A retirement allowance computed as provided for in RCW  
8 41.40.630, actuarially reduced by the amount of any lump sum benefit  
9 identified as owing to an obligee upon withdrawal of accumulated  
10 contributions pursuant to a court order filed under RCW 41.50.670 and  
11 actuarially adjusted to reflect a joint and one hundred percent  
12 survivor option under RCW 41.40.660 and, except under subsection (4) of  
13 this section, if the member was not eligible for normal retirement at  
14 the date of death a further reduction as described in RCW 41.40.630; if  
15 a surviving spouse who is receiving a retirement allowance dies leaving  
16 a child or children of the member under the age of majority, then such  
17 child or children shall continue to receive an allowance in an amount  
18 equal to that which was being received by the surviving spouse, share  
19 and share alike, until such child or children reach the age of  
20 majority; if there is no surviving spouse eligible to receive an  
21 allowance at the time of the member's death, such member's child or  
22 children under the age of majority shall receive an allowance share and  
23 share alike calculated as herein provided making the assumption that  
24 the ages of the spouse and member were equal at the time of the  
25 member's death;

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

29 (c) For a member who leaves the employ of an employer to enter the  
30 uniformed services of the United States and who dies after January 1,  
31 2007, while honorably serving in the uniformed services of the United  
32 States in Operation Enduring Freedom or Persian Gulf, Operation Iraqi  
33 Freedom, an amount equal to two hundred percent of the member's  
34 accumulated contributions, less any amount identified as owing to an  
35 obligee upon withdrawal of accumulated contributions pursuant to a  
36 court order filed under RCW 41.50.670.

37 (3) If a member who is eligible for retirement or a member who has  
38 completed at least ten years of service dies after October 1, 1977, and

1 is not survived by a spouse or an eligible child, then the accumulated  
2 contributions standing to the member's credit, less any amount  
3 identified as owing to an obligee upon withdrawal of accumulated  
4 contributions pursuant to a court order filed under RCW 41.50.670,  
5 shall be paid:

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

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

12 (4) A member who is killed in the course of employment, as  
13 determined by the director of the department of labor and industries,  
14 or a member who has left the employ of an employer due to service in  
15 the national guard or military reserves and dies while honorably  
16 serving in the national guard or military reserves during a period of  
17 war as defined in RCW 41.04.005, is not subject to an actuarial  
18 reduction under RCW 41.40.630. The member's retirement allowance is  
19 computed under RCW 41.40.620.

20 **Sec. 13.** RCW 41.40.835 and 2003 c 155 s 8 are each amended to read  
21 as follows:

22 (1) If a member dies prior to retirement, the surviving spouse or  
23 eligible child or children shall receive a retirement allowance  
24 computed as provided in RCW 41.40.790 actuarially reduced to reflect a  
25 joint and one hundred percent survivor option and, except under  
26 subsection (2) of this section, if the member was not eligible for  
27 normal retirement at the date of death a further reduction as described  
28 in RCW 41.40.820.

29 If the surviving spouse who is receiving the retirement allowance  
30 dies leaving a child or children under the age of majority, then such  
31 child or children shall continue to receive an allowance in an amount  
32 equal to that which was being received by the surviving spouse, share  
33 and share alike, until such child or children reach the age of  
34 majority.

35 If there is no surviving spouse eligible to receive an allowance at  
36 the time of the member's death, such member's child or children under

1 the age of majority shall receive an allowance, share and share alike.  
2 The allowance shall be calculated with the assumption that the age of  
3 the spouse and member were equal at the time of the member's death.

4 (2) A member who is killed in the course of employment, as  
5 determined by the director of the department of labor and industries,  
6 or a member who has left the employ of an employer due to service in  
7 the national guard or military reserves and dies while honorably  
8 servng in the national guard or military reserves during a period of  
9 war as defined in RCW 41.04.005, is not subject to an actuarial  
10 reduction under RCW 41.40.820. The member's retirement allowance is  
11 computed under RCW 41.40.790.

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