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Code: Section: 

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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 5. PERSONNEL [18000 - 22980] (Division 5 added by Stats. 1945, Ch. 123.)

PART 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21716] (Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2.)

CHAPTER 14. Death Benefits [21490 - 21635.5] (Chapter 14 added by Stats. 1995, Ch. 379, Sec. 2.)

ARTICLE 5. Postretirement Death Benefits [21620 - 21635.5] (Article 5 added by Stats. 1995, Ch. 379, Sec. 2.)

21620. (a) Upon the death of any person, after retirement and while receiving a retirement allowance from this system, there shall be paid to the person's beneficiary as nominated by written designation duly executed and filed with the board, the sum of five hundred dollars (\$500), to be provided from contributions by the state or contracting agency, as the case may be.

(b) Notwithstanding Section 7522.44, the benefit amount authorized in subdivision (a) shall be increased to two thousand dollars (\$2,000) for any death occurring on or after July 1, 2023.

(c) This section shall apply to all contracting agencies and to the employees of those agencies.

(Amended by Stats. 2022, Ch. 193, Sec. 1. (SB 1168) Effective January 1, 2023.)

21621. If the beneficiary of a member retired under this system is entitled to receive a comparable lump-sum death benefit from any other retirement system supported, in whole or in part, by public funds in which he or she was a member in employment subsequent to his or her last employment in which he or she was a member of this system, no payment shall be made under Section 21620, 21622, 21623, 21623.5, or 21623.6 providing for payment of a lump-sum death benefit to a member's designated beneficiary.

(Amended by Stats. 2003, Ch. 10, Sec. 31. Effective May 14, 2003.)

21622. (a) In lieu of benefits provided by Section 21620, upon the death of any person, after retirement and while receiving a retirement allowance from this system, there shall be paid to the beneficiary whom he or she shall nominate by written designation duly executed and filed with the board, the sum of six hundred dollars (\$600), to be provided from contributions by the employer.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under this system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost and, (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the contracting agency's contract.

(d) This section shall not apply to any contracting agency, except for those contracting agencies that are school employers and those school districts or community college districts, as defined in subdivision (i) of Section 20057, until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after January 1, 1981, by express provision in the contract making the contracting agency subject to this section.

(Amended by Stats. 2000, Ch. 1002, Sec. 14.5. Effective January 1, 2001.)

21623. (a) In lieu of benefits provided by Section 21620 or 21622, upon the death of any retired state or school member, after retirement and while receiving a retirement allowance from this system, there shall be paid to the beneficiary whom he or she shall nominate by written designation duly executed and filed with the board, the sum of two thousand dollars (\$2,000), to be provided from contributions by the employer.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under this system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation.

(d) This section shall apply to a school employer and a retired school member whose death after retirement occurs on or after January 1, 2001. This section shall not apply to any contracting agency or local member, except those contracting agencies that are school employers and those school districts or community college districts as defined in subdivision (i) of Section 20057.

(Amended by Stats. 2000, Ch. 1002, Sec. 15.5. Effective January 1, 2001.)

21623.5. (a) In lieu of benefits provided by Sections 21620 and 21622 upon the death of any local member, after retirement and while receiving a retirement allowance from this system, there shall be paid to the beneficiary whom he or she shall nominate by written designation duly executed and filed with the board, the sum of two thousand dollars (\$2,000), three thousand dollars (\$3,000), four thousand dollars (\$4,000), or five thousand dollars (\$5,000), whichever amount is designated by the employer in its contract, to be provided from contributions by the employer.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under the system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation.

(d) This section shall not apply to a contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required or in the case of contracts made on or after January 1, 1999, except by express provision in the contract making the contracting agency subject to this section.

(Amended by Stats. 2000, Ch. 1002, Sec. 16.5. Effective January 1, 2001.)

21623.6. (a) In lieu of benefits provided by Sections 21620, 21622, and 21623, upon the death of any school member, after retirement and while receiving a retirement allowance from this system, there shall be paid to the beneficiary whom he or she shall nominate by written designation duly executed and filed with the board, the sum of three thousand dollars (\$3,000), four thousand dollars (\$4,000), or five thousand dollars (\$5,000), whichever amount is designated by the employer in its contract, to be provided from contributions by the employer.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods that, in the aggregate, are reasonable and that, in combination, offer the actuary's best estimate of anticipated experience under the system.

(c) The additional employer contributions required under this section shall be computed as a level percentage of member compensation.

(d) This section shall not apply to a school employer unless and until it elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made on or after January 1, 2001, except by express provision in the contract making the school employer subject to this section.

(Added by Stats. 2000, Ch. 947, Sec. 6. Effective January 1, 2001.)

21624. Upon the death of a patrol, state peace officer/firefighter, or state safety member whose retirement for service or disability is effective on or after April 1, 1973, a monthly allowance derived from employer contributions equal to a percentage of the amount of his or her retirement allowance as it was at his or her death based on service credited to him or her as a member subject to this section, but excluding any portion of the retirement allowance derived from additional contributions of the member, shall be paid to the surviving spouse throughout life. The percentage shall be 25 percent for an allowance based on service for which the allowance is reduced because the service was also covered under the federal system and 50 percent for an allowance based on any other service. If there is no surviving spouse, or upon the death of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition that disabled that child prior to attaining age 18 and that has continued without interruption after age 18, until the disability ceases. If, at the time of the retired member's death, there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him or her for support. If, on the effective date of his or her retirement, the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of service retirements subject to this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his or her retirement and ending on the date of his or her death and, for purposes of disability retirements subject to this section, means a husband or wife who was married to the member on the date of his or her retirement and continuously to the date of his or her death.

(Amended by Stats. 1999, Ch. 800, Sec. 10. Effective January 1, 2000.)

21625. Notwithstanding any other provision of this part, upon the member's election to be subject to Section 21460 or 21478, the benefits provided by Section 21624, 21626, 21627, 21628, 21629, or 21630, as applicable, shall be payable only to the member's eligible surviving spouse and for his or her lifetime. The benefit shall not cease upon the remarriage of the surviving spouse.

(Amended by Stats. 2016, Ch. 199, Sec. 32. (AB 2404) Effective January 1, 2017.)

21626. "Member" for purposes of Section 21624 also includes those local miscellaneous members and local safety members who on March 31, 1973 were subject to former Sections 21264, as amended by Chapter 249 of the Statutes of 1971 and 21264.1, as added by Chapter 150 of the Statutes of 1971, as those sections read prior to their repeal on April 1, 1973. "Member" shall not include any other local miscellaneous or local safety member or apply to any contracting agency employing the member until the agency elects to be subject to Section 21624 by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among employees shall not be required or, in the case of contracts made on or after April 1, 1973, by express provision of the contract. The election may be exercised separately with respect to local safety members who are firefighters, local safety members who are police officers, local safety members other than police officers or firefighters, and local miscellaneous members. The operative date of Section 21624 for purposes of application to that section to those local members shall be the effective date of the contract or contract amendment.

"Surviving spouse" shall mean, for a member subject to Section 21624, who retires for disability retirement on or after January 1, 1995, a husband or wife who was married to the member on the date of his or her retirement and continuously to the date of his or her death.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21626.5. (a) For purposes of Section 21624, 21626, 21627, 21629, or 21630, a surviving domestic partner shall be treated in the same manner as a surviving spouse if either:

(1) The domestic partnership was registered for one year prior to the member's service retirement date or at the disability retirement date and continuously until the date of the member's death.

(2) The member retired prior to January 1, 2006, and both the member and his or her domestic partner, who currently are in a state-registered domestic partnership, sign an affidavit stating that, at the time prescribed by the retirement system for married spouses to qualify for survivor continuance, the member and the domestic partner would have qualified to be registered as domestic partners pursuant to Section 297 of the Family Code.

(b) For purposes of Section 21624, 21626, 21627, 21629, or 21630, an individual who is the same gender as the member shall be treated in the same manner as a surviving spouse if the following conditions are satisfied:

(1) The individual entered into marriage with the member on or after the date when individuals of the same gender were legally allowed to enter into marriage and was married continuously until the date of the member's death.

(2) Either of the following applies:

(A) The member retired prior to the date when individuals of the same gender were legally allowed to enter into marriage, and both the member and his or her spouse, who are currently married, sign an affidavit stating that, at the time prescribed by the retirement system for spouses to qualify for a survivor continuance, the member and the individual would have qualified to be legally married had it been legally possible for people of the same gender to marry.

(B) The individual originally qualified to become a surviving spouse under subdivision (a).

(Amended by Stats. 2016, Ch. 415, Sec. 31. (AB 2375) Effective January 1, 2017.)

21627. (a) An eligible survivor of a state safety member who retired prior to April 1, 1973, and died prior to September 28, 1987, shall receive a monthly survivor's allowance, derived solely from employer contributions and not from any contributions from the member, equal to 50 percent of the amount of the member's retirement allowance payable to the member at the time of his or her death. The member's monthly allowance shall have been based on his or her credited service. An eligible survivor of a state safety

member who retired prior to April 1, 1973, and died on or after September 28, 1987, shall receive a monthly survivor's allowance determined pursuant to Section 21624.

(b) The benefit provided by this section shall not be offset by any entitlement of the survivor under the federal system.

(c) The benefit is payable to the surviving spouse for life.

(d) If there is no surviving spouse of the retired member, or upon the death of a surviving spouse, the benefit authorized by this section shall be paid to an eligible child or to eligible children.

(e) If, at the time of the death of the retired member there is no surviving spouse or eligible child or children, the benefit authorized by this section shall be paid to the parent or parents of the deceased member who were dependent upon the member for support.

(f) If, at the effective date of his or her retirement, the member was unmarried, or if, at the time of his or her death, the member had no eligible child or children, had no dependent parent or parents, and had elected an optional settlement, no survivor's allowance authorized by this section shall vest in or be paid to any individual.

(g) "Surviving spouse," for purposes of this section, means a husband or wife who was married to the member for a period of time beginning one year or more prior to his or her retirement and continuing without interruption until the death of the member.

(h) "Eligible child," for purposes of this section, means an unmarried child of the deceased member who (1) has not attained age 18, or (2) is over age 18 but disabled due to a condition that existed and disabled the child prior to his or her 18th birthday and that has continuously disabled the person after having reached age 18. Eligibility of the child for the benefits of this section shall terminate upon the earlier of the following:

(1) Attainment of age 18, unless the disability exemption applies.

(2) Marriage of the child prior to age 18.

(3) Cessation of a child's disability.

(4) Death of a child.

(i) The allowance paid pursuant to this section shall be adjusted to reflect a one-half continuance allowance with no offset by reason of participation in the federal system. The adjustment provided by this section shall be applied to any survivor receiving a continuance allowance on September 28, 1987. Nothing in this section was or is intended to, or shall be construed to, impair any vested rights of any eligible survivor of a state safety member who retired prior to April 1, 1973, and who died on or after September 28, 1987.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21628. The allowance provided by Section 21624 shall be paid with respect to a local miscellaneous or local safety member whose retirement was effective prior to his or her employer's election to be subject to the section with respect to employees in his or her employment, if at retirement he or she did not elect the optional settlement in Section 21456, 21457, 21459, 21475, 21475.5, 21476, 21476.5, or 21477 or an optional settlement involving life contingency in Section 21458. The retirement allowance payable to a retired member who elected any of these optional settlements, or to a beneficiary of a retired member, shall be increased by 15 percent, for time on and after the operative date and prior to the next annual adjustment under Article 3 (commencing with Section 21310) of Chapter 13 and the base allowance shall be increased by 15 percent for purpose of that and all subsequent annual adjustments. The amount payable to the beneficiary under the optional settlement shall be increased by the same percentage and in the same manner as the increase provided for the payment to the member.

The increased allowance provided by this section shall not be payable to a beneficiary who is receiving an allowance pursuant to this article or Article 4 (commencing with Section 21350) of Chapter 13 on September 29, 1980, until the employer of the retired member elects to be subject to this section as so amended by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among employees shall not be required. In the case of contracts made on or after September 29, 1980, the operative date of Section 21624, for purposes of application of that section to local members, shall be the effective date of the contract or contract amendment.

(Amended by Stats. 2016, Ch. 199, Sec. 33. (AB 2404) Effective January 1, 2017.)

21629. Upon the death, after the effective date of retirement, of a state miscellaneous member none of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1974, or of a school member or school safety member none of whose service rendered in school service or school safety service has been included in the federal system and whose retirement is effective on or after July 1, 1983, a monthly allowance derived from employer contributions equal to 50 percent of the amount of his or her retirement allowance as it was at his or her death and based on service credited to him or her as a member subject to this section but excluding any portion of the retirement allowance derived from additional contributions of the member shall be paid to the surviving spouse throughout life. If there is no surviving spouse, or upon the death of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has

not attained age 18, or who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the disability ceases. If at the time of the retired member's death there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him or her for support. If on the effective date of retirement there is a person who will be eligible if the person survives, the member's election of an optional settlement other than the optional settlement in Section 21455 or 21474 shall apply only to a portion of his or her allowance as provided in Section 21451 or 21471.1. If on the effective date of his or her retirement the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of service retirement subject to this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his or her retirement and ending on the date of his or her death and, for purposes of disability retirement subject to this section where the member retired on or after January 1, 1995, means a husband or wife who was married to the member on the date of his or her retirement and continuously to the date of his or her death.

(Amended by Stats. 2016, Ch. 199, Sec. 34. (AB 2404) Effective January 1, 2017.)

21630. Upon death after the effective date of retirement of a state miscellaneous member some of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1975, or of a school member or school safety member some of whose service rendered in school employment has been included in the federal system and whose retirement is effective on or after July 1, 1983, a monthly allowance, derived from employer contributions, equal to a percentage of the amount of his or her retirement allowance as it was at his or her death based on service credited to him or her as a member subject to this section but excluding any portion of the retirement allowance derived from additional contributions of the member shall be paid to the surviving spouse throughout life. The percentage shall be 25 percent for an allowance based on service that was also covered under the federal system and 50 percent for an allowance based on any other service, except that the percentage shall be 50 percent for the allowance of a member whose service was subject to Section 21076 or 21077 and who had become a member prior to November 1, 1988. If there is no surviving spouse, or upon the death of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition that disabled that child prior to attaining age 18 and that has continued without interruption after age 18, until the disability ceases. If at the time of the retired member's death there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him or her for support. If on the effective date of retirement there is a person who will be eligible if the person survives, the member's election of an optional settlement, other than the optional settlement in Section 21455 or 21474, shall apply only to a portion of the allowance as provided in Section 21451 or 21471.1. If on the effective date of his or her retirement the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of service retirement subject to this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his or her retirement and ending on the date of his or her death and, for purposes of disability retirement subject to this section where the member retired on or after January 1, 1995, means a husband or wife who was married to the member on the date of his or her retirement and continuously to the date of his or her death.

(Amended by Stats. 2016, Ch. 199, Sec. 35. (AB 2404) Effective January 1, 2017.)

21631. (a) The monthly allowance provided by Sections 21629 and 21630 shall be paid on account of retired school members who did not at retirement elect the optional settlement in Section 21456, 21457, 21459, 21475, 21475.5, 21476, 21476.5, or 21477 or an optional settlement involving life contingency in Section 21458.

(b) Upon receipt of a written application for benefits at the office of the board, the benefits provided by this section shall be payable to eligible survivors of retired school members who are not receiving a monthly allowance on account of miscellaneous service as a state member.

(c) When there are no records in the board's possession that contain necessary data for determining the retirement benefit claimed, the applicant or applicants for the benefit shall be required to establish entitlement to the benefit upon evidence satisfactory to the board. That data, at a minimum, shall be sufficient to establish the date of the retired member's death and the amount of the retired member's monthly allowance payable at the time of his or her death. The net benefit payable to the retired school member at the date of death may be determined by the board on the basis of the evidence submitted or upon other evidence if that evidence allows the board to determine the unmodified allowance payable on the date of death. The board shall use available evidence, whether from information provided by the applicant, partial records in possession of the board, or from other sources, as the basis for assumptions that are necessary in order to calculate the allowance payable to the eligible survivor or survivors.

(d) The benefits provided by this section shall be subject to the same eligibility and termination provisions that apply to members at their retirement and shall be paid commencing on the first day of the month succeeding the month in which the application for the benefits of this section is received by the board.

(e) The board has no duty to identify, locate, or notify any survivor of a retired school member who may potentially be eligible for the benefits of this section. The board has no duty to provide the name or address of any potential survivor to any person, agency, or

entity for the purpose of notifying survivors who may potentially be eligible for the benefits of this section.

(f) The cost of the additional benefits provided pursuant to the trial court decision in *California State Employees Association, et al. v. Board of Administration of the Public Employees' Retirement System et al.* (Sacramento County Superior Court, Case No. 332315) shall be paid out of the reserve against deficiencies established by Section 20174.

(Amended by Stats. 2016, Ch. 199, Sec. 36. (AB 2404) Effective January 1, 2017.)

21632. (a) The monthly allowances provided by Sections 21629 and 21630 shall be paid on account of retired state miscellaneous members who did not at retirement elect the optional settlement in Section 21456, 21457, or 21459, or an optional settlement involving life contingency in Section 21458, and whose retirement dates were effective before July 1, 1974, with respect to members who were not covered by the federal system, and before July 1, 1975, with respect to members who were covered under the federal system. Upon receipt of a written application by the board, the benefits provided by this section shall be payable to eligible survivors of retired members who are not receiving a monthly allowance on account of miscellaneous service as a state member. However, if, on the date the application is received by the board, there is no longer in existence a record in the board's possession setting forth the retirement data relating to the retired member, the applicant survivor or survivors of the retired member shall be required, as a condition precedent to his or her entitlement to the benefit provided by this section, to furnish documentary evidence satisfactory to the board to enable it to determine the date of the retired member's death and the amount of the member's allowance that was currently payable at the time of death. The net benefit payable to the retired member at the time of death shall be determined on the basis of the evidence submitted, unless the board is able to determine the unmodified allowance payable at the time of death. If the allowance payable to an eligible survivor is based on evidence furnished by the survivor or partial member records in the board's possession, or both, the board shall use that information to assume any additional factors required to calculate the allowance payable. The benefits shall be subject to the same eligibility and termination provisions that apply to members at retirement and shall, subject to subdivision (b), be paid only for the period of time commencing on the first of the month following receipt by the board of the application for the benefits. The board has no duty to locate or notify any potential survivor or to provide the name or address of any potential survivor to any person, agency, or entity for the purpose of notifying survivors.

(b) Upon receipt of a written application pursuant to subdivision (a), the benefits provided by this section shall be paid both prospectively and retroactively for the period of time commencing with the first day of the month following receipt of the application.

(c) The payment of benefits pursuant to this section, as amended by Chapter 788 of the Statutes of 1984, shall commence no sooner than January 1, 1985.

(Amended by Stats. 2016, Ch. 199, Sec. 37. (AB 2404) Effective January 1, 2017.)

21633. The monthly allowance provided by Section 21624 shall be paid on account of patrol and state safety members retired for nonindustrial disability with effective dates of retirement prior to April 1, 1972, and who did not at retirement elect the optional settlement in Section 21456, 21457, or 21459 or an optional settlement involving life contingency in Section 21458. Upon receipt of a written application by the board, the benefits provided by this section shall also be payable to eligible survivors of retired members who are not receiving a monthly allowance on account of service as a patrol or state safety member if the retired member was alive and receiving a monthly allowance on June 30, 1974. The benefits shall be subject to the same eligibility and termination provisions that apply to members at retirement and shall be paid only for the period of time commencing on the first of the month following receipt by the board of the application for those benefits.

(Amended by Stats. 2016, Ch. 199, Sec. 38. (AB 2404) Effective January 1, 2017.)

21634. Any provision of this article or Article 4 (commencing with Section 21350) of Chapter 13 imposing as a condition for payment of an allowance to a surviving spouse that he or she have been married to the member for at least one year prior to retirement shall be deemed satisfied if the member was required to retire because of attainment of mandatory retirement age within one year following an amendment to the retirement law or the contracting agency's contract lowering the mandatory retirement age for his or her category of membership, and the surviving spouse was married to the member on the date of the amendment.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

21635. Notwithstanding any other provisions of this part, survivor continuance allowances payable to surviving spouses upon death after retirement of a member do not cease upon remarriage if the remarriage occurs on or after January 1, 1985, in the case of local members of contracting agencies that elected to be subject to this section, or all members on or after January 1, 2000. However, pursuant to Section 22822, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse. The survivor continuance allowance shall be restored if that allowance has been discontinued upon the spouse's remarriage prior to January 1, 2000.

(a) The allowance shall be resumed on January 1, 2000, or the first of the month, following receipt by the board of a written application from the spouse for resumption of the allowance, whichever is later.

(b) The amount of the benefits due shall be calculated as though the allowance had never been discontinued because of remarriage, and is not payable for the period between the date of discontinuance because of remarriage and the effective date of resumption.

(c) The board has no duty to identify, locate, or notify a spouse who previously had his or her allowance discontinued because of remarriage.

(Amended by Stats. 2004, Ch. 69, Sec. 17. Effective June 24, 2004.)

21635.5. (a) Notwithstanding any other provision of this part, on and after the effective date of this section, the remarriage of the surviving spouse of a deceased local safety member who was a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, whose death after retirement was due to injuries which resulted in industrial disability retirement, may not result in the reduction or cessation of any survivor continuance if the remarriage occurs on or after January 1, 1998. However, pursuant to Section 22822, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse.

(b) The surviving spouse of a deceased retired local safety member whose death after retirement was due to injuries which resulted in industrial disability retirement who previously lost entitlement due to remarriage shall be entitled to resume payment of the benefit effective either on January 1, 1999, or the first of the month following receipt by the board of a written application for resumption of benefits, whichever date is later. The amount of the benefit payable shall be calculated as though the benefit had been paid without interruption from the date of remarriage through the benefit resumption effective date.

(c) The board has no duty to identify, locate, or notify a remarried spouse who previously lost entitlement about the resumption of benefits provided in this section. The board has no duty to provide the name or address of any remarried spouse to any person, agency, or entity for the purpose of notifying those who may be eligible under this section.

(d) Nothing in this section may be construed to imply that the benefits addressed will be paid retroactively.

(Amended by Stats. 2004, Ch. 69, Sec. 18. Effective June 24, 2004.)