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SB-1261 Fire prevention: firefighting aircraft: pilot death benefits. (2017-2018)

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Date Published: 09/21/2018 09:00 PM

Senate Bill No. 1261

CHAPTER 625

An act to amend Section 4114.5 of the Public Resources Code, relating to fire prevention, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 2018. Filed with Secretary of State September 21, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1261, Nielsen. Fire prevention: firefighting aircraft: pilot death benefits.

(1) Existing law requires that any contract entered into by the Department of Forestry and Fire Protection to retain the services of pilots to fly firefighting aircraft expressly provide that, if the pilot dies while performing the duties specified in the contract, eligible survivors, as defined, if any, of the pilot be paid a one-time death benefit, as determined according to prescribed requirements.

This bill would instead require that express provision only in a contract entered into by the department with a nonpublic entity that includes a provision for the services of pilots to fly firefighting aircraft for the purpose of fighting fire if the aircraft is owned by, or on loan to, the department.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4114.5 of the Public Resources Code is amended to read:

4114.5. (a) Any contract with a nonpublic entity entered into by the department that includes a provision for the services of pilots to fly firefighting aircraft owned by, or on loan to, the department for the purpose of fighting fire shall expressly provide that, if the pilot dies while performing the duties specified in the contract, eligible survivors, if any, of the pilot shall be paid a one-time death benefit by the department equal to the sum of the following:

(1) The amount of the one-time benefit that the eligible survivors of the pilot would receive if the pilot were subject to the federal Public Safety Officers' Death Benefits Act (42 U.S.C. Sec. 3796 et seq.). This paragraph shall not be applicable if, at the time of the pilot's death, the eligible survivors of the pilot are entitled to benefits under that act.

(2) An amount, as determined by the department, that would be commensurate with the death benefit payable to a mid-career firefighter employed by the department who died in the line of duty.

(b) The benefits payable pursuant to any contract subject to this section shall be paid to eligible survivors in a lump sum as follows:

(1) If there is no eligible child, to the surviving spouse.

(2) If there is an eligible child or children and a surviving spouse, one-half to the child or to the children in equal shares and one-half to the surviving spouse.

(3) If there is no surviving spouse and there is an eligible child or children, to the eligible child or in equal shares to the eligible children.

(4) If there is no surviving spouse nor any eligible child or children, to the surviving parent or in equal shares to the surviving parents.

(c) If there are no eligible survivors, no benefit shall be payable and a pilot may not otherwise designate a beneficiary to receive the benefits under the contract.

(d) (1) As used in this section, an "eligible survivor" means the surviving spouse, eligible children, or surviving parents of the deceased pilot.

(2) "Surviving spouse" means a husband or wife who was married to the pilot at the time of the pilot's death.

(3) "Eligible child" means an unmarried, natural child of the deceased pilot who (A) was born before or after the death of the pilot or is an adopted child or stepchild of the pilot, and (B) is 18 years of age or younger at the time of the pilot's death, or over the age of 18 years and incapable of self-support due to a physical or mental disability, or between the age of 18 and 22 years and pursuing a full-time course of study or training, if the child has not already completed four years of education beyond high school.

(e) This section shall be applicable irrespective of whether the department contracts directly with the pilot or contracts with a third party that employs or contracts with pilots.

(f) Nothing in this section relieves the pilot's employer from the obligation to secure coverage for workers' compensation; eliminates or reduces any workers' compensation benefits otherwise available; or affects, alters, or eliminates any other remedy otherwise available at law.

(g) This section does not apply to a pilot who dies while performing duties in a firefighting aircraft that is owned by the pilot or another entity other than the department pursuant to a contract or agreement with the department, except for a firefighting aircraft on loan to the department pursuant to subdivision (a).

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make necessary statutory changes governing death benefits for pilots flying firefighting aircraft pursuant to a contract or agreement with the Department of Forestry and Fire Protection before the end of the 2018 fire season, it is necessary that this act take effect immediately.