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SB-850 Special death benefits: additional percentages: children of members. (2021-2022)

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Senate Bill No. 850

CHAPTER 219

An act to repeal and add Section 21541 of the Government Code, relating to public employees' retirement.

[Approved by Governor August 29, 2022. Filed with Secretary of State August 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 850, Laird. Special death benefits: additional percentages: children of members.

Existing law, the Public Employees' Retirement Law, requires the payment of death benefits to beneficiaries of members and, under certain conditions, the payment of special death benefits. These special death benefits are payable to the surviving spouse and children of certain member categories, among them peace officer and safety member categories, whose deaths are determined to be industrial. Existing law requires an additional percentage of the special death benefit to be paid to the spouses of members who are killed in the performance of their duties, or who die as a result of an accident or an injury caused by external violence or physical force during the performance of their duties, for each of the members' children, as specified, for the lifetime of the surviving spouse.

This bill, for the purpose of the additional percentage of the special death benefit described above, would require that payment be made to the person having custody of the member's child or children, if the member does not have a surviving spouse but otherwise meets the specified requirements, or if the surviving spouse dies before each child of the member has died, married, or reached 22 years of age. The bill would eliminate the use of the lifetime of the surviving spouse for purposes of determining the term during which this benefit is paid. The bill would make these provisions operative retroactively to on or after January 1, 2013, and would make various nonsubstantive style changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 21541 of the Government Code is repealed.

SEC. 2. Section 21541 is added to the Government Code, to read:

21541. (a) The special death benefit consists of the following:

(1) An amount equal to and derived from the same source as the basic death benefit exclusive of the contributions from which the annuity provided under paragraph (4) is paid.

(2) An amount sufficient, when added to the amount provided under paragraph (1), to provide, when applied according to tables adopted by the board, a monthly death allowance equal to one-half of the member's final compensation in the membership

category applicable to them at the time of the injury, or the onset of the disease, causing death, as adjusted pursuant to subdivision (b), which amount shall be payable to the surviving spouse to whom the member was married either continuously for at least one year before death, or before sustaining the injury or disease resulting in death, as long as the surviving spouse lives; or, if there is no surviving spouse or if the spouse dies before all children of the deceased member attain 22 years of age, to the member's children under 22 years of age collectively until every child shall have died, married, or attained 22 years of age. However, no child shall receive any part of the allowance after marrying or attaining 22 years of age. The increases described in this section shall only apply to spouses of deceased members who would have been less than 50 years of age, if still living on January 1, 2001.

(3) (A) An additional percentage of the death benefit allowed by this section, exclusive of the annuity under paragraph (4), shall be paid to the spouse of a member who is killed in the performance of their duty or who dies as a result of an accident or an injury caused by external violence or physical force, incurred in the performance of their duty, for each of the member's children during the lifetime of the child, or until the child marries or reaches 22 years of age, as follows: for one child, 25 percent; for two children, 40 percent; and for three or more children, 50 percent.

(B) Notwithstanding Section 7522.44, upon the death of a member on or after January 1, 2013, if the member does not have a surviving spouse, but the provisions of subparagraph (A) otherwise apply to the member, or if the surviving spouse dies before every child of the member has died, married, or reached 22 years of age, the additional benefit described by subparagraph (A) shall be paid to the person having custody of the member's child or children.

(4) An annuity that is the actuarial equivalent, assuming monthly payments for life to the surviving spouse, of the deceased's accumulated additional contributions at the date of their death, plus their accumulated contributions at that date based on compensation earned in any membership category other than the category applicable to them at the time of the injury or the onset of the disease causing death.

(b) For purposes of this section only, the deceased member's final compensation shall be deemed to increase, and the death benefit under paragraph (2) of subdivision (a) shall be increased correspondingly, at any time and to the extent the compensation is increased for then-active members employed in the job classification and membership category that was applicable to the deceased member at the time of the injury, or the onset of the disease, causing death. The deceased member's final compensation shall be deemed to be subject to further increases hereunder only until the earlier of (1) the death of the surviving spouse or (2) the date that the deceased member would have attained the age of 50 years.

(c) Monthly allowances shall be adjusted annually for time commencing on the first day of September and effective with the monthly allowance regularly payable on the first day of the October beginning with October 1, 2001. The employer of the deceased member shall be responsible for reporting and certifying top range salary rates by the first day of July, beginning with July 1, 2001.

(d) If the surviving spouse does not have custody of the member's children, the additional amount payable pursuant to this section shall be payable to the person having custody of the children for each child during the lifetime of the child, or until the child marries or reaches 22 years of age.

(e) The computation for time before entering the membership category applicable to the deceased at the time of the injury, or the onset of the disease, causing death shall be based on the compensation earnable by the member in the position first held by them in that category.

(f) For purposes of this section:

(1) "Child" means a natural or adopted child of the deceased member, or a stepchild living or domiciled with the deceased member at the time of their death.

(2) "Spouse" means a wife or husband.

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

(h) For purposes of Section 21313, the base allowance shall be the allowance as increased under this section. The base year for annual adjustments of allowances increased by this section shall be the calendar year preceding the year of the adjustment.

(i) The amount of the death benefit payable pursuant to this section on and after January 1, 2001, with respect to any member who died before that date, shall be recalculated on and after that date pursuant to subdivision (b).