

**Senator Alvin B. Jackson** proposes the following substitute bill:

**LINE-OF-DUTY DEATH BENEFITS FOR PEACE**

**OFFICERS AND FIREFIGHTERS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act and the Public Safety Code by amending death benefits provisions.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends line-of-duty lump sum benefit amounts for public safety officers and firefighters;
- ▶ provides an exception to restrictions from changing Tier II benefits in certain circumstances;
- ▶ requires an employer to provide certain health coverage for the surviving spouse and children of a peace officer or firefighter who dies in the line-of-duty under certain circumstances;
- ▶ requires an employer to provide assistance for applying for a death benefit to a surviving spouse of a public safety officer or firefighter; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

- 31 **49-14-501**, as last amended by Laws of Utah 2014, Chapter 15
- 32 **49-14-502**, as last amended by Laws of Utah 2011, Chapters 366 and 439
- 33 **49-15-501**, as last amended by Laws of Utah 2014, Chapter 15
- 34 **49-15-502**, as last amended by Laws of Utah 2011, Chapters 366 and 439
- 35 **49-16-501**, as last amended by Laws of Utah 2011, Chapter 439
- 36 **49-16-502**, as last amended by Laws of Utah 2011, Chapters 366 and 439
- 37 **49-23-301**, as last amended by Laws of Utah 2011, Chapter 439
- 38 **49-23-503**, as last amended by Laws of Utah 2014, Chapter 15

39 ENACTS:

- 40 **53-17-101**, Utah Code Annotated 1953
- 41 **53-17-102**, Utah Code Annotated 1953
- 42 **53-17-201**, Utah Code Annotated 1953
- 43 **53-17-301**, Utah Code Annotated 1953



45 *Be it enacted by the Legislature of the state of Utah:*

46 Section 1. Section **49-14-501** is amended to read:

47 **49-14-501. Death of active member in Division A -- Payment of benefits.**

48 (1) If an active member of this system enrolled in Division A under Section **49-14-301**  
49 dies, benefits are payable as follows:

50 (a) If the death is classified by the office as a line-of-duty death, the spouse at the time  
51 of death shall receive a lump sum [~~of \$1,000~~] equal to six months of the active member's final  
52 average salary and an allowance equal to 30% of the deceased member's final average monthly  
53 salary.

54 (b) If the death is not classified by the office as a line-of-duty death, benefits are  
55 payable as follows:

56 (i) If the member has accrued less than 10 years of public safety service credit, the

57 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,  
58 whichever is greater.

59 (ii) If the member has accrued 10 or more years of public safety service credit at the  
60 time of death, the spouse at the time of death shall receive the sum of \$500, plus an allowance  
61 equal to 2% of the member's final average monthly salary for each year of service credit  
62 accrued by the member up to a maximum of 30% of the member's final average monthly salary.

63 (2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor  
64 children of members covered under Division A.

65 (3) If a benefit is not distributed under this section, and the member has designated a  
66 beneficiary, the member's member contributions shall be paid to the beneficiary.

67 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the  
68 office.

69 (b) The allowance shall begin on the first day of the month following the month in  
70 which the:

71 (i) member died, if the application is received by the office within 90 days of the  
72 member's death; or

73 (ii) application is received by the office, if the application is received by the office  
74 more than 90 days after the member's death.

75 Section 2. Section **49-14-502** is amended to read:

76 **49-14-502. Death of active member in Division B -- Payment of benefits.**

77 (1) If an active member of this system enrolled in Division B under Section **49-14-301**  
78 dies, benefits are payable as follows:

79 (a) If the death is classified by the office as a line-of-duty death, the spouse at the time  
80 of death shall receive:

81 (i) a lump sum [~~of \$1,500~~] equal to six months of the active member's final average  
82 salary; and

83 (ii) an allowance equal to 37.5% of the member's final average monthly salary.

84 (b) If the death is not classified by the office as a line-of-duty death, benefits are  
85 payable as follows:

86 (i) If the member has accrued two or more years of public safety service credit at the  
87 time of death, the death is considered a line-of-duty death and the [~~benefit shall be paid~~] spouse

88 at the time of death shall receive:

89 (A) a lump sum of \$1,500; and

90 (B) an allowance as provided under Subsection (1)(a)(ii).

91 (ii) If the member has accrued less than two years of public safety service credit at the  
92 time of death, the spouse at the time of death shall receive a refund of the member's member  
93 contributions, plus 50% of the member's most recent 12 months' compensation.

94 (c) (i) If the member has accrued two or more years of public safety service credit at  
95 the time of death, each of the member's unmarried children to age 18 or dependent unmarried  
96 children with a mental or physical disability shall receive a monthly allowance of \$50.

97 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or  
98 as otherwise provided under Sections 49-11-609 and 49-11-610.

99 (2) In the event of the death of both parents, the spouse's benefit shall be prorated and  
100 paid to each of the member's unmarried children to age 18.

101 (3) If a benefit is not distributed under the previous subsections, and the member has  
102 designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

103 (4) The combined annual payments made to the beneficiaries of any member under this  
104 section may not exceed 75% of the member's final average monthly salary.

105 (5) (a) A spouse who requests a benefit under this section shall apply in writing to the  
106 office.

107 (b) The allowance shall begin on the first day of the month:

108 (i) following the month in which the member died, if the application is received by the  
109 office within 90 days of the member's death; or

110 (ii) following the month in which the application is received by the office, if the  
111 application is received by the office more than 90 days after the member's death.

112 Section 3. Section 49-15-501 is amended to read:

113 **49-15-501. Death of active member in Division A -- Payment of benefits.**

114 (1) If an active member of this system enrolled in Division A under Section 49-15-301  
115 dies, benefits are payable as follows:

116 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as  
117 follows:

118 (i) If the member has accrued less than 20 years of public safety service credit, the

119 spouse at the time of death shall receive a lump sum [~~of \$1,000~~] equal to six months of the  
120 active member's final average salary and an allowance equal to 30% of the member's final  
121 average monthly salary.

122 (ii) If the member has accrued 20 or more years of public safety service credit, the  
123 member shall be considered to have retired with an allowance calculated under Section  
124 49-15-402 and the spouse at the time of death shall receive the death benefit payable to a  
125 spouse at the time of death under Section 49-15-504.

126 (b) If the death is not classified as a line-of-duty death by the office, benefits are  
127 payable as follows:

128 (i) If the member has accrued less than 10 years of public safety service credit, the  
129 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,  
130 whichever is greater.

131 (ii) If the member has accrued 10 or more years, but less than 20 years of public safety  
132 service credit at the time of death, the spouse at the time of death shall receive the sum of \$500,  
133 plus an allowance equal to 2% of the member's final average monthly salary for each year of  
134 service credit accrued by the member up to a maximum of 30% of the member's final average  
135 monthly salary.

136 (iii) If the member has accrued 20 or more years of public safety service credit, the  
137 benefit shall be calculated as provided in Subsection (1)(a)(ii).

138 (2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor  
139 children under Division A.

140 (3) If a benefit is not distributed under this section, and the member has designated a  
141 beneficiary, the member's member contribution shall be paid to the beneficiary.

142 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the  
143 office.

144 (b) The allowance shall begin on the first day of the month following the month in  
145 which the:

146 (i) member died, if the application is received by the office within 90 days of the  
147 member's death; or

148 (ii) application is received by the office, if the application is received by the office  
149 more than 90 days after the member's death.

150 Section 4. Section 49-15-502 is amended to read:

151 **49-15-502. Death of active member in Division B -- Payment of benefits.**

152 (1) If an active member of this system enrolled in Division B under Section 49-15-301  
153 dies, benefits are payable as follows:

154 (a) If the death is classified by the office as a line-of-duty death, the spouse at the time  
155 of death shall receive:

156 (i) a lump sum [~~of \$1,500~~] equal to six months of the active member's final average  
157 salary; and

158 (ii) an allowance equal to 37.5% of the member's final average monthly salary.

159 (b) If the death is not classified by the office as a line-of-duty death, and the member  
160 has accrued two or more years of public safety service credit at the time of death, the death is  
161 considered line-of-duty and the [~~benefit shall be paid~~] spouse at the time of death shall receive:

162 (i) a lump sum of \$1,500; and

163 (ii) an allowance as provided under Subsection (1)(a)(ii).

164 (c) If the death is not classified by the office as a line-of-duty death, and the member  
165 has accrued less than two years of public safety service credit at the time of death, the spouse at  
166 the time of death shall receive a refund of the member's member contributions, plus 50% of the  
167 member's most recent 12 months' compensation.

168 (d) (i) If the member has accrued two or more years of public safety service credit at  
169 the time of death, each of the member's unmarried children to age 18 or dependent unmarried  
170 children with a mental or physical disability shall receive an allowance of \$50.

171 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or  
172 as otherwise provided under Section 49-11-609 or 49-11-610.

173 (2) In the event of the death of both parents, the spouse's benefit shall be prorated and  
174 paid to each of the member's unmarried children to age 18.

175 (3) If a benefit is not distributed under the previous subsections, and the member has  
176 designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

177 (4) The combined payments to beneficiaries of any member under this section may not  
178 exceed 75% of the member's final average monthly salary.

179 (5) (a) A spouse who requests a benefit under this section shall apply in writing to the  
180 office.

181 (b) The allowance shall begin on the first day of the month:

182 (i) following the month in which the member died, if the application is received by the  
183 office within 90 days of the member's death; or

184 (ii) following the month in which the application is received by the office, if the  
185 application is received by the office more than 90 days after the member's death.

186 Section 5. Section **49-16-501** is amended to read:

187 **49-16-501. Death of active member in Division A -- Payment of benefits.**

188 (1) If an active member of this system enrolled in Division A under Section **49-16-301**  
189 dies, benefits are payable as follows:

190 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as  
191 follows:

192 (i) If the member has accrued less than 20 years of firefighter service credit, the spouse  
193 at the time of death shall receive a lump sum [~~of \$1,500~~] equal to six months of the active  
194 member's final average salary and an allowance equal to 30% of the member's final average  
195 monthly salary.

196 (ii) If the member has accrued 20 or more years of firefighter service credit, the  
197 member shall be considered to have retired with an allowance calculated under Section  
198 **49-16-402** and the spouse at the time of death shall receive the death benefit payable to a  
199 spouse under Section **49-16-504**.

200 (b) If the death is not classified as a line-of-duty death by the office, benefits are  
201 payable as follows:

202 (i) If the member has accrued less than 10 years of firefighter service credit, the  
203 beneficiary shall receive a sum of \$1,000 or a refund of the member's member contributions,  
204 whichever is greater.

205 (ii) If the member has accrued 10 or more years of firefighter service credit the spouse  
206 at the time of death shall receive a sum of \$500, plus an allowance equal to 2% of the member's  
207 final average monthly salary for each year of service credit accrued by the member up to a  
208 maximum of 30% of the member's final average monthly salary.

209 (2) (a) If the member dies without a current spouse, the spouse's allowance shall be  
210 equally divided and paid to each unmarried child until the child reaches age 21.

211 (b) The payment shall be made to a duly appointed guardian or as provided under

212 Sections 49-11-609 and 49-11-610.

213 (3) If the benefit is not distributed under this section, and the member has designated a  
214 beneficiary, the member's member contributions shall be paid to the beneficiary.

215 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the  
216 office.

217 (b) The allowance shall begin on the first day of the month:

218 (i) following the month in which the member died, if the application is received by the  
219 office within 90 days of the member's death; or

220 (ii) following the month in which the application is received by the office, if the  
221 application is received by the office more than 90 days after the member's death.

222 Section 6. Section 49-16-502 is amended to read:

223 **49-16-502. Death of active member in Division B -- Payment of benefits.**

224 (1) If an active member of this system enrolled in Division B under Section 49-16-301  
225 dies, benefits are payable as follows:

226 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as  
227 follows:

228 (i) If the member has accrued less than 20 years of firefighter service credit, the spouse  
229 at the time of death shall receive:

230 (A) a lump sum [~~of \$1,500~~] equal to six months of the active member's final average  
231 salary; and

232 (B) an allowance equal to 37.5% of the member's final average monthly salary.

233 (ii) If the member has accrued 20 or more years of firefighter service credit, the  
234 member shall be considered to have retired with an allowance calculated under Section  
235 49-16-402 and the spouse at the time of death shall receive the death benefit payable to a  
236 spouse under Section 49-16-504.

237 (b) If the death is not classified by the office as a line-of-duty death, the benefits are  
238 payable as follows:

239 (i) If the member has accrued five or more years of firefighter service credit, the death  
240 is considered line-of-duty and the [~~same benefits are payable~~] spouse at time of death shall  
241 receive:

242 (A) a lump sum of \$1,500; and



243 (B) an allowance as established under Subsection (1)(a)(i)(B).

244 (ii) If the member has accrued less than five years of firefighter service credit, the  
245 spouse at the time of death shall receive a refund of the member's contributions, plus 50% of  
246 the member's most recent 12 months compensation.

247 (c) If the member has accrued five or more years of firefighter service credit, the  
248 member's unmarried children until they reach age 21 or dependent unmarried children with a  
249 mental or physical disability, shall receive a monthly allowance of \$75.

250 (2) (a) In the event of the death of the member and spouse, the spouse's benefits are  
251 equally divided and paid to each unmarried child until the child reaches age 21.

252 (b) The payments shall be made to the surviving parent or duly appointed guardian or  
253 as provided under Sections 49-11-609 and 49-11-610.

254 (3) If a benefit is not distributed under the previous subsections, and the member has  
255 designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

256 (4) The combined monthly payments made to the beneficiaries of any member under  
257 this section may not exceed 75% of the member's final average monthly salary.

258 (5) (a) A spouse who requests a benefit under this section shall apply in writing to the  
259 office.

260 (b) The allowance shall begin on the first day of the month:

261 (i) following the month in which the member died, if the application is received by the  
262 office within 90 days of the member's death; or

263 (ii) following the month in which the application is received by the office, if the  
264 application is received by the office more than 90 days after the member's death.

265 Section 7. Section 49-23-301 is amended to read:

266 **49-23-301. Contributions.**

267 (1) Participating employers and members shall pay the certified contribution rates to  
268 the office to maintain the defined benefit portion of this system on a financially and actuarially  
269 sound basis in accordance with Subsection (2).

270 (2) (a) A participating employer shall pay up to 12% of compensation toward the  
271 certified contribution rate to the office for the defined benefit portion of this system.

272 (b) A member shall only pay to the office the amount, if any, of the certified  
273 contribution rate for the defined benefit portion of this system that exceeds the percent of

274 compensation paid by the participating employer under Subsection (2)(a).

275 (c) In addition to the percent specified under Subsection (2)(a), the participating  
276 employer shall pay the corresponding Tier I system amortization rate of the employee's  
277 compensation to the office to be applied to the employer's corresponding Tier I system liability.

278 (3) A participating employer may not elect to pay all or part of the required member  
279 contributions under Subsection (2)(b), in addition to the required participating employer  
280 contributions.

281 (4) (a) A member contribution is credited by the office to the account of the individual  
282 member.

283 (b) This amount, together with refund interest, is held in trust for the payment of  
284 benefits to the member or the member's beneficiaries.

285 (c) A member contribution is vested and nonforfeitable.

286 (5) (a) Each member is considered to consent to payroll deductions of member  
287 contributions.

288 (b) The payment of compensation less these payroll deductions is considered full  
289 payment for services rendered by the member.

290 (6) ~~[Benefits]~~ Except as provided under Subsection (7), benefits provided under the  
291 defined benefit portion of the Tier II hybrid retirement system created under this part:

292 (a) may not be increased unless the actuarial funded ratios of all systems under this title  
293 reach 100%; and

294 (b) may be decreased only in accordance with the provisions of Section [49-23-309](#).

295 (7) The Legislature authorizes an increase to the death benefit provided to a Tier II  
296 public safety service employee or firefighter member's surviving spouse at the time of death  
297 effective on May 12, 2015, as provided in Section [49-23-503](#).

298 Section 8. Section **49-23-503** is amended to read:

299 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

300 If an active member of this system dies, benefits are payable as follows:

301 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as  
302 follows:

303 (a) If the member has accrued less than 20 years of public safety service or firefighter  
304 service credit, the spouse at the time of death shall receive a lump sum ~~[of \$1,000]~~ equal to six

305 months of the active member's final average salary and an allowance equal to 30% of the  
306 member's final average monthly salary.

307 (b) If the member has accrued 20 or more years of public safety service or firefighter  
308 service credit, the member shall be considered to have retired with an Option One allowance  
309 calculated without an actuarial reduction under Section 49-23-304 and the spouse at the time of  
310 death shall receive the allowance that would have been payable to the member.

311 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this  
312 section if the death results from external force, violence, or disease directly resulting from  
313 firefighter service.

314 (b) The lowest monthly compensation of firefighters of a city of the first class in this  
315 state at the time of death shall be considered to be the final average monthly salary of a  
316 volunteer firefighter for purposes of computing these benefits.

317 (c) Each volunteer fire department shall maintain a current roll of all volunteer  
318 firefighters which meet the requirements of Subsection 49-23-102(12) to determine the  
319 eligibility for this benefit.

320 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are  
321 payable under this section and the spouse at the time of death is not eligible for benefits under  
322 Section 49-23-502.

323 (b) If the death is not classified as a line-of-duty death by the office, benefits are  
324 payable in accordance with Section 49-23-502.

325 (4) (a) A spouse who qualifies for a monthly benefit under this section shall apply in  
326 writing to the office.

327 (b) The allowance shall begin on the first day of the month following the month in  
328 which the:

329 (i) member or participant died, if the application is received by the office within 90  
330 days of the date of death of the member or participant; or

331 (ii) application is received by the office, if the application is received by the office  
332 more than 90 days after the date of death of the member or participant.

333 Section 9. Section 53-17-101 is enacted to read:

334 **CHAPTER 17. PUBLIC SAFETY OFFICER AND FIREFIGHTER**  
335 **LINE-OF-DUTY DEATH ACT**

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**Part 1. General Provisions**

**53-17-101. Title.**

This chapter is known as the "Public Safety Officer and Firefighter Line-of-Duty Death Act."

Section 10. Section **53-17-102** is enacted to read:

**53-17-102. Definitions.**

As used in this chapter:

(1) "Children" means an unmarried dependent child of a member, including stepchildren and legally adopted children.

(2) "Employer" means a law enforcement agency or other state or local government agency that:

(a) is a participating employer as defined in Section [49-11-102](#); and

(b) employs one or more public safety service employees or firefighter service employees who are eligible to earn service credit in a Utah Retirement System under Title 49, Utah State Retirement and Insurance Benefit Act.

(3) "Member" means the same as that term is defined in Section [49-11-102](#).

Section 11. Section **53-17-201** is enacted to read:

**Part 2. Health Coverage for a Surviving Spouse**

**53-17-201. Surviving spouse and children health coverage for line-of-duty death.**

(1) (a) Subject to Subsection (1)(b), and in accordance with this section, an employer shall allow the surviving spouse and children of a member whose death is classified by the Utah State Retirement Office as a line-of-duty death under the provisions of Title 49, Utah State Retirement and Insurance Benefit Act, to remain eligible for health coverage under the employer's group health plan as if the surviving spouse was an employee of the employer.

(b) The employer shall pay 100% of the premium costs for the surviving spouse and dependent children as described under Subsection (1)(a) and may not require payment from the surviving spouse for premium costs as a condition of qualifying to continue to receive the health coverage.

(2) An employer shall allow a surviving spouse and children to remain eligible to receive health coverage from the employer under this section at the option of the surviving spouse until:

367 (a) the surviving spouse becomes eligible for Medicare, whichever comes first; and

368 (b) the children reach age 26.

369 (3) This section does not apply to a member who:

370 (a) does not qualify for a line-of-duty death benefit under the provisions of Title 49,

371 Utah State Retirement and Insurance Benefit Act;

372 (b) at the time of death did not receive or qualify to receive employer group health

373 coverage; or

374 (c) is covered under the provisions of Section [49-20-406](#).

375 Section 12. Section **53-17-301** is enacted to read:

376 **Part 3. Death Benefit Assistance**

377 **53-17-301. Death benefit assistance.**

378 (1) An employer shall notify the governor's office of the line-of-duty death of an active

379 member.

380 (2) The governor's office shall ensure that the spouse, at the time of death of the active

381 member, or the beneficiary are provided assistance to understand and apply for any death

382 benefit for which the surviving spouse or beneficiaries may be eligible under this chapter, other

383 Utah law, federal law, or local policy or ordinance.