

HB0288S02 compared with HB0288S01

~~{deleted text}~~ shows text that was in HB0288S01 but was deleted in HB0288S02.

inserted text shows text that was not in HB0288S01 but was inserted into HB0288S02.

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~~{Representative Paul Ray}~~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: _____

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;

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- ▶ requires an employer to ~~allow~~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:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-14-501, as last amended by Laws of Utah 2014, Chapter 15

49-14-502, as last amended by Laws of Utah 2011, Chapters 366 and 439

49-15-501, as last amended by Laws of Utah 2014, Chapter 15

49-15-502, as last amended by Laws of Utah 2011, Chapters 366 and 439

49-16-501, as last amended by Laws of Utah 2011, Chapter 439

49-16-502, as last amended by Laws of Utah 2011, Chapters 366 and 439

49-23-301, as last amended by Laws of Utah 2011, Chapter 439

49-23-503, as last amended by Laws of Utah 2014, Chapter 15

ENACTS:

53-17-101, Utah Code Annotated 1953

53-17-102, Utah Code Annotated 1953

53-17-201, Utah Code Annotated 1953

53-17-301, Utah Code Annotated 1953

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) If the member has accrued less than 20 years of public safety service credit, the spouse at the time of death shall receive a lump sum [~~of \$1,000~~] equal to six months of the active member's final average salary and an allowance equal to 30% of the member's final average monthly salary.

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

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

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

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

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

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

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

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

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office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) In the event of the death of both parents, the spouse's benefit shall be prorated and

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paid to each of the member's unmarried children to age 18.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The payment shall be made to a duly appointed guardian or as provided under Sections 49-11-609 and 49-11-610.

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

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

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

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

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

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

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

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

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

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

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

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

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

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spouse under Section 49-16-504.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49-23-301. Contributions.

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

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

(b) A member shall only pay to the office the amount, if any, of the certified contribution rate for the defined benefit portion of this system that exceeds the percent of compensation paid by the participating employer under Subsection (2)(a).

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

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

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

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

(c) A member contribution is vested and nonforfeitable.

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

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

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

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

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

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

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

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

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

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

(a) If the member has accrued less than 20 years of public safety service or firefighter service credit, the spouse at the time of death shall receive a lump sum [~~of \$1,000~~] equal to six months of the active member's final average salary and an allowance equal to 30% of the member's final average monthly salary.

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 17. PUBLIC SAFETY OFFICER AND FIREFIGHTER

LINE-OF-DUTY DEATH ACT

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.

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(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:

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

(b) the children reach age 26.

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

(a) does not qualify for a line-of-duty death benefit under the provisions of Title 49, Utah State Retirement and Insurance Benefit Act;

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

(c) is covered under the provisions of Section 49-20-406.

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

Part 3. Death Benefit Assistance

53-17-301. Death benefit assistance.

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

(2) The governor's office shall ensure that the spouse, at the time of death of the active member, or the beneficiary are provided assistance to understand and apply for any death benefit for which the surviving spouse or beneficiaries may be eligible under this chapter, other Utah law, federal law, or local policy or ordinance.