

CHAPTER 39

GOVERNMENT - MUNICIPAL

HOUSE BILL 01-1027

BY REPRESENTATIVE(S) Plant, Alexander, Mace, Miller, Ragsdale, Scott, Smith, Bacon, Coleman, Daniel, Dean, Groff, Grossman, Jahn, Madden, Marshall, Romanoff, Saliman, Stafford, Tapia, Veiga, Vigil, and Williams S.; also SENATOR(S) Andrews, Arnold, Cairns, Dyer (Arapahoe), Epps, Evans, Hanna, Hernandez, Matsunaka, May, Musgrave, Nichol, Phillips, Taylor, and Windels.

AN ACT

CONCERNING SURVIVOR BENEFITS FOR CERTAIN SURVIVORS OF MEMBERS OF THE STATEWIDE DEATH AND DISABILITY PENSION PLAN FOR POLICE OFFICERS AND FIREFIGHTERS UPON THE DEATH OF A MEMBER IN ACTIVE SERVICE WHO IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 31-31-807, Colorado Revised Statutes, is amended to read:

31-31-807. Death of member - survivor benefits. (1) (a) If a member ~~who is not eligible for the normal retirement pension described in section 31-31-403~~ dies while in active service and leaves a surviving spouse or dependent children, or both, one of the ~~following~~ survivor benefits DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) shall be paid ~~unless the member is eligible for a normal retirement pension under an old hire pension plan established pursuant to article 30.5 of this title that provides for postretirement survivor benefits to a spouse and dependent children in the event the member dies in active service while eligible for normal retirement~~ IF THE MEMBER:

(I) IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION UNDER AN OLD HIRE PENSION PLAN ESTABLISHED PURSUANT TO ARTICLE 30.5 OF THIS TITLE THAT PROVIDES FOR POSTRETIREMENT SURVIVOR BENEFITS TO A SPOUSE AND DEPENDENT CHILDREN IN THE EVENT THE MEMBER DIES IN ACTIVE SERVICE WHILE ELIGIBLE FOR NORMAL RETIREMENT; AND

(II) (A) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION DESCRIBED IN SECTION 31-31-403; OR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(B) HAS NOT REACHED AGE FIFTY-FIVE WITH TWENTY-FIVE YEARS OF ACCUMULATED SERVICE AS A MEMBER AND IS A PARTICIPANT UNDER THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE OR UNDER A LOCAL MONEY PURCHASE PLAN.

(b) ONE OF THE FOLLOWING SURVIVOR BENEFITS SHALL BE PAID IF THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (1) ARE SATISFIED:

~~(a)~~ (I) When there is a surviving spouse and no dependent children, the monthly benefit shall be ~~twenty-five~~ FORTY percent of the monthly base salary paid to such member immediately preceding death. ~~Plus one-half of one percent of such salary for each year of the member's active service in excess of twenty-five years, but such benefit shall not exceed thirty-five percent of such salary.~~

~~(b)~~ (II) When there is a surviving spouse and one dependent child, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(c)~~ (III) When there is a surviving spouse and two or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

~~(d)~~ (IV) When there is no surviving spouse and three or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

~~(e)~~ (V) When there is no surviving spouse and two dependent children, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

~~(f)~~ (VI) When there is no surviving spouse and one dependent child, the monthly benefit shall be ~~twenty-five~~ FORTY percent of the monthly base salary paid to such member immediately preceding death.

(2) Any benefit provided in accordance with this section to the surviving spouse or dependent child of a member who dies while in active service shall terminate upon the death of the surviving spouse or upon the death ~~marriage~~, or termination of dependency of such dependent child, as defined in section 31-31-801 (2), as applicable.

(3) (a) WHEN THERE IS A SURVIVING SPOUSE AND ONE DEPENDENT CHILD RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILD SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(b) WHEN THERE IS A SURVIVING SPOUSE AND TWO OR MORE DEPENDENT CHILDREN RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILDREN SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(c) UPON THE TERMINATION OF THE BENEFIT PAYABLE TO THE CHILD OR CHILDREN PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (3), THE SURVIVING SPOUSE SHALL RECEIVE THE BENEFIT PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(4) IN THE EVENT THAT A SURVIVOR BENEFIT IS PAYABLE FOR THE BENEFIT OF MORE THAN ONE DEPENDENT CHILD OF THE MEMBER PURSUANT TO SUBPARAGRAPH (II), (IV), OR (V) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION AND THE DEPENDENT CHILDREN RESIDE IN SEPARATE HOUSEHOLDS FROM EACH OTHER, THE BENEFIT SHALL BE DIVIDED EQUALLY AMONG THE CHILDREN.

(5) ANY SURVIVING SPOUSE OR DEPENDENT CHILD RECEIVING BENEFITS PURSUANT TO SUBPARAGRAPH (I) OR (VI) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JANUARY 1, 2002, SHALL RECEIVE ANY INCREASED BENEFIT ESTABLISHED IN SUBPARAGRAPH (I) OR (VI) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION ON THE EFFECTIVE DATE OF THIS ACT, AS APPLICABLE.

SECTION 2. 31-31-807.5 (1), Colorado Revised Statutes, is amended, and the said 31-31-807.5 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

31-31-807.5. Death of member - line-of-duty - survivor benefits. (1) (a) If a member ~~who is not eligible for the normal retirement pension described in section 31-31-403~~ dies while in active service as the direct and proximate result of a personal injury sustained while performing official duties or as a result of an occupational disease arising out of and in the course of the member's employment and leaves a surviving spouse or dependent children, or both, one of the ~~following~~ survivor benefits DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) shall be paid ~~unless the member is eligible for a normal retirement pension under an old hire pension established pursuant to article 30.5 of this title that provides for postretirement survivor benefits to a spouse and dependent children in the event the member dies in active service while eligible for normal retirement~~ IF THE MEMBER:

(I) IS NOT ELIGIBLE FOR A NORMAL RETIREMENT PENSION UNDER AN OLD HIRE PENSION ESTABLISHED PURSUANT TO ARTICLE 30.5 OF THIS TITLE THAT PROVIDES FOR POSTRETIREMENT SURVIVOR BENEFITS TO A SPOUSE AND DEPENDENT CHILDREN IN THE EVENT THE MEMBER DIES IN ACTIVE SERVICE WHILE ELIGIBLE FOR NORMAL RETIREMENT; AND

(II) (A) IS NOT ELIGIBLE FOR THE NORMAL RETIREMENT PENSION DESCRIBED IN SECTION 31-31-403; OR

(B) HAS NOT REACHED AGE FIFTY-FIVE WITH TWENTY-FIVE YEARS OF ACCUMULATED SERVICE AS A MEMBER AND IS A PARTICIPANT UNDER THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART 5 OF THIS ARTICLE OR UNDER A LOCAL MONEY PURCHASE PLAN.

(b) ONE OF THE FOLLOWING SURVIVOR BENEFITS SHALL BE PAID IF THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (1) ARE SATISFIED:

~~(a)~~ (I) When there is a surviving spouse and no dependent children, the monthly

benefit shall be ~~twenty-five~~ FORTY percent of the monthly base salary paid to such member immediately preceding death. ~~Plus one-half of one percent of such salary for each year of the member's active service in excess of twenty-five years, but such benefit shall not exceed thirty-five percent of such salary.~~

(b) (II) When there is a surviving spouse and one dependent child, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

(c) (III) When there is a surviving spouse and two or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to such member immediately preceding death.

(d) (IV) When there is no surviving spouse and three or more dependent children, the monthly benefit shall be fifty percent of the monthly base salary paid to each member immediately preceding death.

(e) (V) When there is no surviving spouse and two dependent children, the monthly benefit shall be forty percent of the monthly base salary paid to such member immediately preceding death.

(f) (VI) When there is no surviving spouse and one dependent child, the monthly benefit shall be ~~twenty-five~~ FORTY percent of the monthly base salary paid to such member immediately preceding death.

(4) ANY BENEFIT PROVIDED IN ACCORDANCE WITH THIS SECTION TO THE SURVIVING SPOUSE OR DEPENDENT CHILD OF A MEMBER WHO DIES WHILE IN ACTIVE SERVICE SHALL TERMINATE UPON THE DEATH OF THE SURVIVING SPOUSE OR UPON THE DEATH OR TERMINATION OF DEPENDENCY OF THE DEPENDENT CHILD, AS DEFINED IN SECTION 31-31-801 (2), AS APPLICABLE.

(5) (a) WHEN THERE IS A SURVIVING SPOUSE AND ONE DEPENDENT CHILD RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILD SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(b) WHEN THERE IS A SURVIVING SPOUSE AND TWO OR MORE DEPENDENT CHILDREN RESIDING IN A SEPARATE HOUSEHOLD FROM THE SURVIVING SPOUSE, THE SURVIVING SPOUSE SHALL RECEIVE TWENTY-FIVE PERCENT OF THE MONTHLY BASE SALARY AND THE CHILDREN SHALL RECEIVE THE BALANCE OF THE BENEFIT PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(c) UPON THE TERMINATION OF THE BENEFIT PAYABLE TO THE CHILD OR CHILDREN PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (5), THE SURVIVING SPOUSE SHALL RECEIVE THE BENEFIT PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION.

(6) IN THE EVENT THAT A SURVIVOR BENEFIT IS PAYABLE FOR THE BENEFIT OF MORE THAN ONE DEPENDENT CHILD OF THE MEMBER PURSUANT TO SUBPARAGRAPH (III), (IV), OR (V) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION AND THE

DEPENDENT CHILDREN RESIDE IN SEPARATE HOUSEHOLDS FROM EACH OTHER, THE BENEFIT SHALL BE DIVIDED EQUALLY AMONG THE CHILDREN.

(7) ANY SURVIVING SPOUSE OR DEPENDENT CHILD RECEIVING BENEFITS PURSUANT TO SUBPARAGRAPH (I) OR (VI) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JANUARY 1, 2002, SHALL RECEIVE ANY INCREASED BENEFIT ESTABLISHED IN SUBPARAGRAPH (I) OR (VI) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION ON THE EFFECTIVE DATE OF THIS ACT, AS APPLICABLE.

SECTION 3. Effective date. This act shall take effect January 1, 2002, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 20, 2001