

AMENDED IN ASSEMBLY APRIL 10, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2156**

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**Introduced by Assembly Member Hernandez**

February 20, 2008

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An act to amend ~~Sections 21537 and 22820~~ *Section 21537* of the Government Code, relating to public employee benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 2156, as amended, Hernandez. Public employee benefits.

The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and the final compensation to members of the Public Employees' Retirement System. The law provides that a special death benefit ~~to be~~ *is* payable if the deceased was a patrol, state peace officer/firefighter, state safety, state industrial, or local safety member, if his or her death was industrial, and if there is a survivor who qualifies, as specified. ~~The Public Employees' Medical and Hospital Care Act provides continuing health benefits coverage to the surviving spouse of a firefighter or peace officer who dies as a result of an injury or disease sustained in the line of duty, as specified.~~

This bill would provide that the special death benefit described above is payable if the death of the ~~firefighter or peace officer~~ *member* occurred from a single event injury arising out of and in the course of his or her official duties which, based on competent medical opinion, rendered the ~~firefighter or peace officer~~ *member* into a persistent vegetative state devoid of cognitive function at the time of injury until the time of death. *The bill would apply only to a member who retired and then died on or after July 3, 2006.* ~~This bill would also provide continuing health~~

benefits coverage to the surviving spouse or other eligible family member in these circumstances, regardless of the employment status of spouse or family member.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 21537 of the Government Code is  
2 amended to read:

3 21537. (a) The special death benefit is payable if the deceased  
4 was a patrol, state peace officer/firefighter, state safety, state  
5 industrial, or local safety member, if his or her death was industrial  
6 and if there is a survivor who qualifies under subdivision (b) of  
7 Section 21541. The Workers' Compensation Appeals Board, using  
8 the same procedures as in workers' compensation hearings, shall  
9 in disputed cases determine whether the death of a member was  
10 industrial.

11 (b) The jurisdiction of the Workers' Compensation Appeals  
12 Board shall be limited solely to the issue of industrial causation,  
13 and this section shall not be construed to authorize the Workers'  
14 Compensation Appeals Board to award costs against this system  
15 pursuant to Section 4600, 5811, or any other provision of the Labor  
16 Code.

17 (c) This section does not apply to state safety members described  
18 in Section 20401.5 or local safety members described in Section  
19 20423.6.

20 (d) (1) For purposes of this section, the special death benefit is  
21 payable *as of the effective date of the industrial disability*  
22 *retirement of the member* if the death of the ~~firefighter or peace~~  
23 ~~officer~~ member occurred from a single event injury arising out of  
24 and in the course of his or her official duties which, based on  
25 competent medical opinion, rendered the ~~firefighter or peace officer~~  
26 member into a persistent vegetative state devoid of cognitive  
27 function at the time of injury until the time of death.

28 (2) *This subdivision applies only to a member who retired and*  
29 *then died on or after July 3, 2006.*

30 ~~SEC. 2. Section 22820 of the Government Code is amended~~  
31 ~~to read:~~

1     ~~22820. (a) Upon the death, on or after January 1, 2002, of a~~  
2 ~~firefighter employed by a county, city, city and county, district,~~  
3 ~~or other political subdivision of the state, a firefighter employed~~  
4 ~~by the Department of Forestry and Fire Protection, a firefighter~~  
5 ~~employed by the federal government who was a resident of this~~  
6 ~~state and whose regular duty assignment was to perform~~  
7 ~~firefighting services within this state, or a peace officer as defined~~  
8 ~~in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34,~~  
9 ~~830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5, 830.55, or~~  
10 ~~830.6 of the Penal Code, if the death occurred as a result of injury~~  
11 ~~or disease arising out of and in the course of his or her official~~  
12 ~~duties, the surviving spouse or other eligible family member of~~  
13 ~~the deceased firefighter or peace officer, if uninsured, is deemed~~  
14 ~~to be an annuitant under Section 22760 for purposes of enrollment.~~  
15 ~~All eligible family members of the deceased firefighter or peace~~  
16 ~~officer who are uninsured may enroll in a health benefit plan of~~  
17 ~~the surviving spouse's choice. However, an unmarried child of the~~  
18 ~~surviving spouse is not eligible to enroll in a health benefit plan~~  
19 ~~under this section if the child was not a family member under~~  
20 ~~Section 22775 and regulations pertinent thereto prior to the~~  
21 ~~firefighter's or peace officer's date of death. The employer of the~~  
22 ~~deceased firefighter or peace officer shall notify the board within~~  
23 ~~10 days of the death of the employee if a spouse or family member~~  
24 ~~may be eligible for enrollment in a health benefit plan under this~~  
25 ~~section.~~

26     ~~(b) Upon notification, the board shall promptly determine~~  
27 ~~eligibility and shall forward to the eligible spouse or family~~  
28 ~~member the materials necessary for enrollment. In the event of a~~  
29 ~~dispute regarding whether a firefighter's or peace officer's death~~  
30 ~~occurred as a result of injury or disease arising out of and in the~~  
31 ~~course of his or her official duties as required under subdivision~~  
32 ~~(a), that dispute shall be determined by the Workers' Compensation~~  
33 ~~Appeals Board, subject to the same procedures and standards~~  
34 ~~applicable to hearings relating to claims for workers' compensation~~  
35 ~~benefits. The jurisdiction of the Workers' Compensation Appeals~~  
36 ~~Board under this section is limited to the sole issue of industrial~~  
37 ~~causation and this section does not authorize the Workers'~~  
38 ~~Compensation Appeals Board to award costs against the system.~~

39     ~~(c) (1) Notwithstanding any other provision of law, and except~~  
40 ~~as otherwise provided in subdivision (d), the state shall pay the~~

1 employer contribution required for enrollment under this part for  
2 the uninsured surviving spouse of a deceased firefighter or peace  
3 officer for life, and the other uninsured eligible family members  
4 of a deceased firefighter or peace officer, provided the family  
5 member meets the eligibility requirements of Section 22775 and  
6 regulations pertinent thereto.

7 (2) ~~The contribution payable by the state for each uninsured~~  
8 ~~surviving spouse and other uninsured eligible family members~~  
9 ~~shall be adjusted annually and be equal to the amount specified in~~  
10 ~~Section 22871.~~

11 (3) ~~The state's contribution under this section shall commence~~  
12 ~~on the effective date of enrollment of the uninsured surviving~~  
13 ~~spouse or other uninsured eligible family members. The~~  
14 ~~contribution of each surviving spouse and eligible family member~~  
15 ~~shall be the total cost per month of the benefit coverage afforded~~  
16 ~~him or her under the plan less the portion contributed by the state~~  
17 ~~pursuant to this section.~~

18 (d) ~~The cancellation of coverage by an annuitant, as defined in~~  
19 ~~this section, shall be final without option to reenroll, unless~~  
20 ~~coverage is canceled because of enrollment in an insurance plan~~  
21 ~~from another source.~~

22 (e) ~~For purposes of this section, "surviving spouse" means a~~  
23 ~~husband or wife who was married to the deceased firefighter or~~  
24 ~~peace officer on the deceased's date of death and either for a~~  
25 ~~continuous period of at least one year prior to the date of death or~~  
26 ~~prior to the date the deceased firefighter or peace officer sustained~~  
27 ~~the injury or disease resulting in death.~~

28 (f) ~~For purposes of this section, "uninsured" means that the~~  
29 ~~surviving spouse is not enrolled in an employer-sponsored health~~  
30 ~~plan under which the employer contribution covers 100 percent~~  
31 ~~of the cost of health care premiums.~~

32 (g) ~~The board has no duty to identify, locate, or notify any~~  
33 ~~surviving spouse or eligible family member who may be or may~~  
34 ~~become eligible for benefits under this section.~~

35 (h) ~~For purposes of this section, the surviving spouse or other~~  
36 ~~eligible family member of the deceased firefighter or peace officer~~  
37 ~~may qualify as an annuitant, regardless of the employment status~~  
38 ~~of the surviving spouse or other eligible family member, if the~~  
39 ~~death of the firefighter or peace officer occurred from a single~~  
40 ~~event injury arising out of and in the course of his or her official~~

- 1 ~~duties which, based on competent medical opinion, rendered the~~
- 2 ~~firefighter or peace officer into a persistent vegetative state devoid~~
- 3 ~~of cognitive function at the time of injury until the time of death.~~

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