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COMMITTEE REPORT

February 17, 2010

**S. 1146**

Introduced by Senator Alexander

S. Printed 2/17/10--S. [SEC 2/18/10 1:45 PM]

Read the first time February 9, 2010.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 1146) to amend Sections 9‑1‑1770, 9‑1‑1775, 9‑8‑110, 9‑9‑100, 9‑11‑120, 9‑11‑125, and 9‑11‑140 of the 1976 Code, relating to the payment of death benefits, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

HUGH K. LEATHERMAN, SR. for Committee.

**A** **BILL**

TO AMEND SECTIONS 9‑1‑1770, 9‑1‑1775, 9‑8‑110, 9‑9‑100, 9‑11‑120, 9‑11‑125, AND 9‑11‑140 OF THE 1976 CODE, RELATING TO THE PAYMENT OF DEATH BENEFITS IN RETIREMENT PLANS ADMINISTERED BY THE SOUTH CAROLINA RETIREMENT SYSTEMS, TO REPEAL CERTAIN DUTIES AND RESPONSIBILITIES OF THE BOARD, TO PROVIDE THAT BENEFITS PAID PURSUANT TO THE ACCIDENTAL DEATH INSURANCE BENEFIT SHALL NOT BE TREATED AS A LIFE INSURANCE BENEFIT, AND TO PROVIDE THAT ADJUSTMENTS TO BENEFITS SHALL BE MADE IN THE MANNER PROVIDED IN SECTION 9‑11‑310.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 9‑1‑1770 of the 1976 Code is amended to read:

“Section 9‑1‑1770. (A) There is created the Preretirement Death Benefit Program for all employers under the system except counties, municipalities, other political subdivisions, and those state departments, agencies, or other institutions which pay directly to the system the total employer contributions for the participating members in their employ.

(B) The program is available to those employers exempted in subsection (A) by written application of the employer. An application is an irrevocable commitment to participate under the program. Applications are effective July first next following the date of receipt by the system of the application.

(C)(1) Upon receipt of proof, satisfactory to the board, of the death of: (a) a contributing member in service who had completed at least one full year of membership in the system or of the death of a contributing member as a result of an injury arising out of and in the course of the performance of his duties regardless of length of membership, as of the effective date of his employer’s participation, or (b) a retired contributing member of the system, there must be paid to the person he nominated for the refund of his accumulated contributions, unless he has nominated a different beneficiary by written designation filed with the board, in the event of his death pursuant to Section 9‑1‑1650, if the person is living at the time of the member’s death, otherwise to the member’s estate, a death benefit equal to the annual earnable compensation of the member at the time his death occurs. The death benefit is payable apart and separate from the payment of the member’s accumulated contributions on his death pursuant to Sections 9‑1‑1650 or 9‑1‑1660.

(2) For purposes of this subsection, a member described in item (1)(a) is considered to be in service at the date of his death if the last day the member was employed in a continuous, regular pay status, while earning regular or unreduced wages and regular or unreduced retirement service credit, whether the member was physically working on that day or taking continuous accrued annual leave or sick leave while receiving a full salary, occurred not more than ninety days before the date of his death and he has not retired.

(3) For purposes of this subsection, a member described in item (1)(b) is considered a retired contributing member if the last day the member was employed in a continuous, regular pay status, while earning regular or unreduced wages and paying retirement system contributions whether the member was physically working on that day or taking continuous accrued annual leave or sick leave while receiving a full salary, occurred not more than ninety days before the date of his death.

(D) ~~The board may take the action necessary to provide the death benefit under this section in the form of group life insurance upon a determination that to do so would guarantee a more favorable tax treatment of the benefit to beneficiaries to whom the benefit is payable.~~

~~(E)~~ Upon the death of a retired member who is not a retired contributing member after December 31, 2000, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member’s death, otherwise to the retired member’s estate, a ~~life insurance~~ benefit of two thousand dollars if the retired member had ten years of creditable service but less than twenty years, four thousand dollars if the retired member had twenty years of creditable service but less than twenty‑eight, and six thousand dollars if the retired member had at least twenty‑eight years of creditable service at the time of retirement, if the retired member’s most recent employer, before the member’s retirement, is covered by the ~~Group Life Insurance Program~~ Preretirement Death Benefit Program.”

SECTION 2. Section 9‑1‑1775 of the 1976 Code is amended to read:

“Section 9‑1‑1775. (A) The ~~Group Life Insurance~~ Death Benefit Plan for members of the South Carolina Retirement System, hereinafter referred to as the ‘plan’, is hereby established and created, for the purpose of providing ~~group life insurance~~ for the payment of the benefits provided by Section 9‑1‑1770 of the laws governing said system.

(B) A separate fund, to be known as the ~~Group Life Insurance~~ Death Benefit Plan Reserve Fund, is hereby established within the South Carolina Retirement System, hereinafter referred to as the ‘retirement system’, to be held in trust by the board. The fund shall consist of all ~~premiums~~ contributions paid by the employers and other monies received and paid into the fund for group term life insurance purposes, and of the investment earnings upon such monies, and shall be used only to pay the ~~group term life insurance~~ death benefit prescribed by subsection (C). Concurrent with the determination of the initial liability of the plan for the balance of the fiscal year on and after the effective date of ~~insurance~~ the plan, for the ~~group term life insurance~~ death benefit provided and to be paid for pursuant to this plan, there shall be segregated and transferred from the Employer Annuity Accumulation Fund of the retirement system to the reserve fund created by this section such amounts as shall be determined by the actuary to be necessary to pay anticipated ~~group term life insurance~~ death benefit claims. Subsequent segregations and transfers shall be made as shall be required to pay the ~~insurance~~ death benefit prescribed by subsection (C) from the reserve fund provided by this section.

(C) In the event of the death of a member who has met the eligibility requirements set forth in Section 9‑1‑1770 ~~on or after the effective date of insurance, an amount of insurance~~, a benefit equal to the death benefit provided by Section 9‑1‑1770 shall be paid to the person nominated by the member in accordance with the provisions of Section 9‑1‑1770 or to the member’s estate.

(D) The actuary shall investigate the claim experience of the plan as provided by Section 9‑1‑250. On the basis of such investigations and upon the recommendation of the actuary, as provided in Section 9‑1‑1210, the board shall certify the ~~premium~~ contribution rates computed to be necessary to fund the ~~group term life insurance~~ death benefit authorized to be paid by the plan. As soon as practicable after the close of each fiscal year, the board shall determine the ~~premium~~ contribution which the employers participating in the plan are required to pay into the reserve fund to discharge the obligations of the plan for the past fiscal year.

(E) Each qualified member of the retirement system is to be ~~insured~~ covered as provided herein effective commencing as of June 19, 1973.”

SECTION 3. Section 9‑8‑110(6) of the 1976 Code is amended to read:

“(6) ~~The Board may take such action as may be necessary to provide the death benefit under this section in the form of group life insurance upon a determination that to do so would guarantee a more favorable tax treatment of the benefit to beneficiaries to whom the benefit is payable.~~

Upon the death of a retired member on or after July 1, 1985, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member’s death, otherwise to the retired member’s estate, a death benefit of one thousand dollars if the retired member had ten years of creditable service but less than twenty years, two thousand dollars if the retired member had twenty years of creditable service but less than thirty, and three thousand dollars if the retired member had at least thirty years of creditable service at the time of retirement.”

SECTION 4. Section 9‑9‑100(4) of the 1976 Code is amended to read:

“(4) Upon receipt of proof, satisfactory to the board, of the death, after June 30, 1969, of a member of the system then in service as a member of the General Assembly who had completed at least one full year of membership in the system or of the death of an in‑service member as a result of an injury arising out of and in the course of the performance of his duties regardless of length of membership, there must be paid to the person he nominated for the refund of his accumulated contributions, unless he has nominated a different beneficiary by written designation filed with the board, pursuant to Section 9‑9‑90, if the person is living at the time of the member’s death, otherwise to the member’s estate, a death benefit equal to the annual earnable compensation of the member at the time his death occurs. The death benefit is payable apart and separate from the payment of the lump sum amount, or the allowance in lieu of it, pursuant to subsections (1) and (3). For purposes of this subsection, a member is considered to be in service at the date of his death if his last day of earned service credit as a member of the General Assembly occurred not more than ninety days before the date of his death and he has not retired or withdrawn contributions.

~~The Board is authorized to take such action as may be necessary to provide the death benefit under this section in the form of group life insurance upon a determination that to do so would guarantee a more favorable tax treatment of the benefit to beneficiaries to whom such benefit is payable.~~

Upon the death of a retired member on or after July 1, 1985, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member’s death, otherwise to the retired member’s estate, a death benefit of one thousand dollars if the retired member had ten years of creditable service but less than twenty years, two thousand dollars if the retired member had twenty years of creditable service but less than thirty, and three thousand dollars if the retired member had at least thirty years of creditable service at the time of retirement.”

SECTION 5. Section 9‑11‑120(E) and (F) of the 1976 Code is amended to read:

“(E) ~~The board may take the action necessary to provide the death benefits under this section in the form of group life insurance upon a determination that to do so would guarantee a more favorable tax treatment of the benefit to beneficiaries to whom the benefit is payable.~~

~~(F)~~ Upon the death of a retired member on or after July 1, 2000, there must be paid to the designated beneficiary or beneficiaries, if living at the time of the retired member’s death, otherwise to the retired member’s estate, a ~~life insurance~~ benefit of two thousand dollars if the retired member had ten years of creditable service but less than twenty years, four thousand dollars if the retired member had twenty years of creditable service but less than twenty‑five, and six thousand dollars if the retired member had at least twenty‑five years of creditable service at the time of retirement, if the retired member’s most recent employer prior to retirement is covered by the ~~Group Life Insurance Program~~ Preretirement Death Benefit Program.”

SECTION 6. Section 9‑11‑125 of the 1976 Code is amended to read:

“Section 9‑11‑125. (A) The ~~Group Life Insurance~~ Death Benefit Plan for members of the South Carolina Police Officers Retirement System, hereinafter referred to as the ‘plan’, is hereby established and created, for the purpose of providing ~~group life insurance~~ for the payment of the benefits provided by Section 9‑11‑120 of the laws governing said system.

(B) A separate fund, to be known as the Death Benefit Plan Reserve Fund, is hereby established within the South Carolina Police Officers Retirement System, hereinafter referred to as the ‘retirement system’, to be held in trust by the board. The fund shall consist of all premiums paid by the employers and other monies received and paid into the fund for group term life insurance purposes, and of the investment earnings upon such monies, and shall be used only to pay the group term life insurance prescribed by subsection (C). Concurrent with the determination of the initial liability of the plan for the balance of the fiscal year on and after the effective date of ~~insurance~~ the benefit, for the ~~group term life insurance~~ death benefit provided and to be paid for pursuant to this plan, there shall be segregated and transferred from the Employer Annuity Accumulation Fund of the retirement system to the reserve fund created by this section such amounts as shall be determined by the actuary to be necessary to pay anticipated ~~group term life insurance~~ death benefit claims. Subsequent segregations and transfers shall be made as shall be required to pay the ~~insurance~~ benefit prescribed by subsection (C) from the reserve fund provided by this section.

(C) In the event of the death of a member who has met the eligibility requirements set forth in Section 9‑11‑120 ~~on or after the effective date of insurance, an amount of insurance~~ a benefit equal to the death benefit provided by Section 9‑11‑120 shall be paid to the person nominated by the member in accordance with the provisions of Section 9‑11‑120 or to the member’s estate.

(D) The actuary shall investigate the ~~claim~~ experience of the plan as provided by Section 9‑11‑30. On the basis of such investigations and upon the recommendation of the actuary, as provided in Section 9‑11‑120, the board shall certify the ~~premium~~ contribution rates computed to be necessary to fund the ~~group term life insurance~~ death benefit authorized to be paid by the plan. As soon as practicable after the close of each fiscal year, the board shall determine the ~~premium~~ contribution rates which the employers participating in the plan are required to pay into the reserve fund to discharge the obligations of the plan for the past fiscal year.

(E) Each qualified member of the retirement system is to be ~~insured~~ covered as provided herein effective commencing as of June 19, 1973.”

SECTION 7. Section 9‑11‑140 of the 1976 Code is amended to read:

“Section 9‑11‑140. Effective July 1, 1962, there shall be created the Accidental Death Benefit Program, which shall be effective as of that date to all employers under the ~~System~~ system except counties, municipalities, and other political subdivisions, as well as those ~~State~~ state departments, agencies, or institutions which pay directly to the ~~System~~ system the total employer contributions for the participating members in their employ. The benefit paid pursuant to this Accidental Death Benefit Program shall not be treated as a life insurance benefit for the beneficiary or beneficiaries set out below.

The ~~Program~~ program shall be available to those employers exempted in the preceding paragraph by written application of such employer. Applications shall be an irrevocable commitment to participate under the ~~Program~~ program. For applications received by the ~~System~~ system prior to October 1, 1971, the effective date of the coverage shall be July 1, 1962. For all other applications the effective date shall be July first next following the date of receipt by the ~~System~~ system of the application. Members of the ~~System~~ system whose employers participate under the program and contribute under this section shall be considered eligible members for purposes hereof.

Upon receipt of the proper proofs of death of an eligible member in service whose death was a natural and proximate result of an injury by external accident or violence incurred while undergoing a hazard peculiar to the member’s employment while in the actual performance of duty, provided that the death was without wilful negligence on the part of the deceased and upon the finding and certification by the board that the death occurred, there must be paid to the member’s surviving spouse, a pension of fifty percent of the member’s compensation at the time of death. If there is no surviving spouse, or if the surviving spouse dies before the youngest child of the deceased member has attained the age of eighteen, the pension is paid to the children, divided in a manner as the board determines to continue for the benefit of the children until every child dies or attains the age of eighteen. If there is no surviving spouse or children under the age of eighteen years living at the death of the member, the pension must be paid to the member’s surviving father or mother, or both, as the board may direct to continue for life. If the member at the time of his death does not leave a surviving spouse, or children under the age of eighteen, or surviving parents, no death benefit is payable under this section. The death benefit is payable apart and separate from the payment of any other benefits payable on the member’s death pursuant to the provisions of Sections 9‑11‑110, 9‑11‑120, and 9‑11‑130.

Notwithstanding any other provision of law, contributions to support the Accidental Death Benefit Program shall be made by participating employers to a separate account. The contributions shall commence on the July first following the effective date of coverage or July 1, 1972, if later, and shall be equal to thirty‑five one hundredths of one percent of the compensation of eligible members, provided that such rate of contribution shall be subject to periodic adjustment on the basis of actual experience and the recommendation of the actuary. All accidental death benefit payments made under this ~~Program~~ program shall be a charge against this account.

The monthly allowance any beneficiary is receiving under this program on July 1, 1980, shall be increased by ten percent effective on such date, provided the beneficiary was receiving a benefit on July 1, 1979.

The monthly allowance any beneficiary is receiving under this program on July 1, 1988, must be increased by ten percent effective on July 1, 1988, if the beneficiary was receiving a benefit on July 1, 1987.

The monthly allowance a beneficiary is receiving under this program on July 1, 1992, must be increased by ten percent effective on July 1, 1992, if the beneficiary was receiving a benefit on July 1, 1991.

Benefits payable under this section must be adjusted to reflect increases in the Consumer Price Index in the manner provided in Section 9‑~~1‑1810~~11‑310.”

SECTION 8. This act takes effect upon approval by the Governor and shall apply to death benefits payable based on member deaths occurring on or after July 1, 2010.

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