

aid fund to the department of labor and industries for the biennium ending June 30, 1991, to carry out the purposes of this act.

Passed the House March 15, 1989.

Passed the Senate April 12, 1989.

Approved by the Governor April 27, 1989.

Filed in Office of Secretary of State April 27, 1989.

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## CHAPTER 190

[Senate Bill No. 5679]

### WORKERS' COMPENSATION—DUTIES OF INSURANCE COMMISSIONER— TRANSFER TO DEPARTMENT OF LABOR AND INDUSTRIES

AN ACT Relating to industrial insurance funds; and amending RCW 51.44.070 and 51.44.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 51.44.070, chapter 23, Laws of 1961 as last amended by section 1, chapter 312, Laws of 1983 and RCW 51.44.070 are each amended to read as follows:

(1) For every case resulting in death or permanent total disability the department shall transfer on its books from the accident fund of the proper class and/or appropriate account to the "reserve fund" a sum of money for that case equal to the estimated present cash value of the monthly payments provided for it, to be calculated upon the basis of an annuity covering the payments in this title provided to be made for the case. Such annuity values shall be based upon rates of mortality, disability, remarriage, and interest as determined by the (~~state insurance commissioner~~) department, taking into account the experience of the reserve fund in such respects.

Similarly, a self-insurer in these circumstances shall pay into the reserve fund a sum of money computed in the same manner, and the disbursements therefrom shall be made as in other cases.

(2) As an alternative to payment procedures otherwise provided under law, in the event of death or permanent total disability to workers of self-insured employers, a self-insured employer may upon establishment of such obligation file with the department a bond, or an assignment of account from a federally or state chartered commercial banking institution authorized to conduct business in the state of Washington, in an amount deemed by the (~~insurance commissioner~~) department to be reasonably sufficient to insure payment of the pension benefits provided by law. The department shall adopt rules governing assignments of account. Such rules shall ensure that the funds are available if needed, even in the case of failure of the banking institution or of the employer's business.

The annuity value for every such case shall be determined by the (~~insurance commissioner~~) department based upon the (~~commissioner's~~) department's experience as to rates of mortality, disability, remarriage, and

interest. The amount of the required bond or assignment of account may be reviewed and adjusted periodically by the department, based upon periodic redeterminations by the (~~insurance commissioner~~) department as to the outstanding annuity value for the case.

Under such alternative, the department shall make the monthly payments from the pension reserve fund for the benefits provided for by RCW 51.32.050 and 51.32.060 to the self-insured beneficiary or beneficiaries and the department shall be reimbursed for all such payments from the particular self-insured employer through periodic charges not less than quarterly in a manner to be determined by the director.

Any self-insured employer electing this alternative method of providing for payment to the beneficiary or beneficiaries shall additionally pay to the department a deposit equal to the first three months' payments otherwise required under RCW 51.32.050 and 51.32.060. Such deposit shall be placed in the reserve fund in accordance with RCW 51.44.140 and shall be returned to the respective self-insured employer when monthly payments are no longer required for such particular obligation.

If a self-insurer delays or refuses to reimburse the department beyond fifteen days after the reimbursement charges become due, there shall be a penalty paid by the self-insurer upon order of the director of an additional amount equal to twenty-five percent of the amount then due which shall be paid into the pension reserve fund. Such an order shall conform to the requirements of RCW 51.52.050.

Sec. 2. Section 51.44.080, chapter 23, Laws of 1961 as last amended by section 8, chapter 161, Laws of 1988 and RCW 51.44.080 are each amended to read as follows:

The department shall notify the state treasurer from time to time, of such transfers as a whole from the state fund to the reserve fund and the interest or other earnings of the reserve fund shall become a part of the reserve fund itself. As soon as possible after June 30th of each year the (~~state insurance commissioner~~) department shall expert the reserve fund to ascertain its standing as of June 30th of that year and the relation of its outstanding annuities at their then value to the cash on hand or at interest belonging to the fund. (~~He~~) The department shall promptly report the result of (~~his~~) the examination to (~~the department and to~~) the state treasurer in writing not later than September 30th following. If the report shows that there was on said June 30th, in the reserve fund in cash or at interest, a greater sum than the then annuity value of the outstanding pension obligations, the surplus shall be forthwith turned over to the state fund

but, if the report shows the contrary condition of the reserve fund, the deficiency shall be forthwith made good out of the state fund.

Passed the Senate March 14, 1989.

Passed the House April 13, 1989.

Approved by the Governor April 27, 1989.

Filed in Office of Secretary of State April 27, 1989.

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CHAPTER 191

[House Bill No. 1719]

EXCESS RETIREMENT BENEFITS—DISTRIBUTION UPON DEATH OF  
RECIPIENT

AN ACT Relating to disability benefit provisions for the Washington public employees' retirement system, the teachers retirement system, and the law enforcement officers' and firefighters' retirement system; amending RCW 41.26.470, 41.32.790, and 41.40.670; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 8, chapter 294, Laws of 1977 ex. sess. as last amended by section 2, chapter 12, Laws of 1982 and RCW 41.26.470 are each amended to read as follows:

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-eight.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of