

SENATE BILL 642

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By: **Senator Elfreth (Chair, Joint Committee on Pensions)**

Introduced and read first time: January 29, 2021

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – COVID–19–Related Death Benefits –**
3 **Clarification**

4 FOR the purpose of clarifying the eligibility of certain members of the State Retirement
5 and Pension System for certain death benefits; requiring the Board of Trustees for
6 the State Retirement and Pension System to accept the death of a member as arising
7 out of or in the course of the actual performance of duty under certain circumstances;
8 requiring the Board to accept certain information as proof of when a member
9 contracted COVID–19; requiring the Board to accept certain information as proof
10 that COVID–19 caused or contributed to the death of a member; authorizing certain
11 individuals who have received certain death benefits prior to this Act taking effect
12 to apply for certain death benefits under this Act; requiring the Board to recover
13 certain death benefit payments under certain circumstances; providing for the
14 method of the recovery of the benefits; prohibiting the recovery of the benefits from
15 reducing a death benefit allowance below a certain amount; authorizing the Board
16 to refer a claim under this Act to a medical board; clarifying that a special death
17 benefit awarded in accordance with this Act is a benefit in the nature of a worker’s
18 compensation act for certain taxation purposes; requiring the State Retirement
19 Agency to report certain information regarding death benefits administered in
20 accordance with this Act by certain dates; providing for the application of this Act;
21 providing for the termination of this Act; defining certain terms; and generally
22 relating to clarifying the administration of death benefits in the State Retirement
23 and Pension System.

24 BY repealing and reenacting, without amendments,
25 Article – State Personnel and Pensions
26 Section 20–101(a), (j), and (z)
27 Annotated Code of Maryland
28 (2015 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – State Personnel and Pensions**

4 20–101.

5 (a) In this Division II the following words have the meanings indicated.

6 (j) “Board of Trustees” means the Board of Trustees for the State Retirement and
7 Pension System.

8 (z) “Member” means, unless a different meaning is plainly required by the
9 context, an individual:

10 (1) for whom membership in a State system is a condition of employment;
11 or

12 (2) (i) for whom membership in a State system is optional; and

13 (ii) who has elected to become a member of that State system.

14 SECTION 2. AND BE IT FURTHER ENACTED, That:

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) “Board” means the Board of Trustees for the State Retirement and
17 Pension System.

18 (3) “COVID–19” means, interchangeably and collectively, the coronavirus
19 known as COVID–19 or 2019–nCoV and the SARS–CoV–2 virus.

20 (4) “Death benefit” means a special death benefit under § 29–203(b), §
21 29–204(b), § 29–204.1, or § 29–204.2 of the State Personnel and Pensions Article.

22 (5) “Member” has the meaning stated in § 20–101 of the State Personnel
23 and Pensions Article.

24 (b) This section applies to an individual:

25 (1) who was a member;

26 (2) who died while employed as a member on or after March 5, 2020, but
27 before July 1, 2022; and

28 (3) whose death was caused by COVID–19 or whose death was contributed
29 to by COVID–19.

1 (c) When determining eligibility for a special death benefit under this section, the
2 Board shall accept the death of a member as arising out of or in the course of the actual
3 performance of duty if:

4 (1) the member reported to the member's usual work location or to an
5 alternative work location provided by the member's employer that is not the member's
6 home;

7 (2) the member contracted COVID-19 within 14 days after reporting to
8 work, as documented in accordance with subsection (d)(1) of this section;

9 (3) the member died on or after March 5, 2020, but before July 1, 2022; and

10 (4) COVID-19 was the cause of death or contributed to the cause of death
11 of the member, as documented in accordance with subsection (d)(2) of this section.

12 (d) (1) When determining eligibility for a special death benefit under this
13 section, the Board shall accept as proof of when a member contracted COVID-19:

14 (i) a positive laboratory test for COVID-19;

15 (ii) a diagnosis from a health care provider licensed in any state or
16 the District of Columbia who treated the member; or

17 (iii) any medical records or other documentation the Board deems
18 adequate as proof of when a member contracted COVID-19.

19 (2) When determining eligibility for a special death benefit under this
20 section, the Board shall accept as proof that COVID-19 was the cause of death or
21 contributed to the death of a member:

22 (i) a certified death certificate that states COVID-19 caused or
23 contributed to the death of the member;

24 (ii) a sworn written statement under the penalties of perjury from a
25 health care provider licensed in any state or the District of Columbia who treated the
26 member that states COVID-19 caused or contributed to the death of the member; or

27 (iii) any medical records or other documentation the Board deems
28 adequate as proof that COVID-19 caused or contributed to the death of the member.

29 (e) (1) This subsection applies to a member who died on or after March 5, 2020,
30 but before June 1, 2021.

31 (2) (i) If a death benefit is paid under § 29-202(a)(3) of the State
32 Personnel and Pensions Article, an individual eligible for a special death benefit allowance

1 under § 29–203(b), § 29–204(b), § 29–204.1, or § 29–204.2 of the State Personnel and
2 Pensions Article may apply for a special death benefit allowance.

3 (ii) An application for a benefit in accordance with subparagraph (i)
4 of this paragraph shall be submitted to the Board on or before August 31, 2021.

5 (iii) The Board shall award a special death benefit if the Board
6 determines that the member’s death would have been eligible for a special death benefit
7 under this section.

8 (iv) If a special death benefit is awarded under subparagraph (iii) of
9 this paragraph and the Board has paid the member’s accumulated contributions under §
10 29–202(a)(2) of the State Personnel and Pensions Article, the Board may not pay the
11 member’s accumulated contributions to the designated beneficiary under § 29–203(b), §
12 29–204(b), § 29–204.1, or § 29–204.2 of the State Personnel and Pensions Article.

13 (3) (i) If the Board awards a special death benefit under paragraph (2)
14 of this subsection, the special death benefit shall be permanently reduced by an amount
15 equal to the actuarial present value of any death benefit paid under § 29–202(a)(3) of the
16 State Personnel and Pensions Article.

17 (ii) An allowance provided under subparagraph (i) of this paragraph
18 may not be reduced each month to be less than an amount equal to the required deduction
19 for:

20 1. the monthly State–approved medical insurance premiums
21 if the recipient of an allowance is enrolled in the State medical insurance program; or

22 2. the approved monthly medical insurance premiums if the
23 recipient of an allowance is enrolled in a medical insurance program provided by the
24 participating employer that employed the deceased member at the time of death.

25 (f) The Board may refer a claim under this section to a medical board established
26 under § 21–126 of the State Personnel and Pensions Article.

27 (g) A special death benefit awarded in accordance with this section is considered
28 payable under a statute in the nature of a workers’ compensation act for purposes of
29 taxation under Internal Revenue Code § 104(a).

30 (h) (1) On or before June 15, 2021, in accordance with § 2–1257 of the State
31 Government Article, the State Retirement Agency shall report to the Joint Committee on
32 Pensions on the number of special death benefits that have been awarded on or after March
33 5, 2020, but before June 1, 2021, for deaths caused by or contributed to by COVID–19.

34 (2) The State Retirement Agency shall report to the Joint Committee on
35 Pensions, in accordance with § 2–1257 of the State Government Article, on the number of

1 special death benefits that have been provided for deaths caused by or contributed to by
2 COVID-19:

3 (i) on or before September 15, 2021, for any benefits awarded on or
4 after June 1, 2021, but before September 1, 2021;

5 (ii) on or before December 15, 2021, for any benefits awarded on or
6 after September 1, 2021, but before December 1, 2021;

7 (iii) on or before March 15, 2022, for any benefits awarded on or after
8 December 1, 2021, but before March 1, 2022; and

9 (iv) on or before June 15, 2022, for any benefits awarded on or after
10 March 1, 2022, but before June 1, 2022.

11 (3) On or before December 1, 2021, in accordance with § 2-1257 of the State
12 Government Article, the State Retirement Agency shall report to the Joint Committee on
13 Pensions on:

14 (i) the number of applications for special death benefits for deaths
15 caused by or contributed to by COVID-19 that have been denied; and

16 (ii) an aggregate summary of the reasons for which any applications
17 reported under item (i) of this paragraph were denied.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
19 apply retroactively and shall be applied to and interpreted to affect the death of a member
20 of one of the several systems of the State Retirement and Pension System occurring on or
21 after March 5, 2020, but before June 1, 2021.

22 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
23 1, 2021. It shall remain effective for a period of 1 year and 1 month and, at the end of June
24 30, 2022, this Act, with no further action required by the General Assembly, shall be
25 abrogated and of no further force and effect.