

Chapter 422

(Senate Bill 642)

AN ACT concerning

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

FOR the purpose of clarifying the eligibility of certain members of the State Retirement and Pension System for certain death benefits; requiring the Board of Trustees for the State Retirement and Pension System to accept the death of a member as arising out of or in the course of the actual performance of duty under certain circumstances; requiring the Board to accept certain information as proof of when a member contracted COVID–19; requiring the Board to accept certain information as proof that COVID–19 caused or contributed to the death of a member; authorizing certain individuals who have received certain death benefits prior to this Act taking effect to apply for certain death benefits under this Act; requiring the Board to recover certain death benefit payments under certain circumstances; providing for the method of the recovery of the benefits; prohibiting the recovery of the benefits from reducing a death benefit allowance below a certain amount; requiring the Board, under certain circumstances, to discontinue payment of a certain allowance and begin payment of a certain special death benefit allowance at a certain time; authorizing the Board to refer a claim under this Act to a medical board; clarifying that a special death benefit awarded in accordance with this Act is a benefit in the nature of a worker’s compensation act for certain taxation purposes; requiring the State Retirement Agency to report certain information regarding death benefits administered in accordance with this Act by certain dates; providing for the application of this Act; providing for the termination of this Act; defining certain terms; and generally relating to clarifying the administration of death benefits in the State Retirement and Pension System.

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

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

Article – State Personnel and Pensions

20–101.

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

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

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

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

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

~~(4)~~ (5) “Death Special death benefit” means a special death benefit under § 29–203(b), § 29–204(b), § 29–204.1, or § 29–204.2 of the State Personnel and Pensions Article.

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

(b) This section applies to an individual:

(1) who was a member;

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

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

(c) When determining eligibility for a special death benefit under this section, the Board shall accept as proof, subject to a rebuttable presumption, that the death of a member ~~as arising~~ arose out of or in the course of the actual performance of duty if:

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) (i) 1. If a death benefit is paid under § 29-202(a)(3) of the State Personnel and Pensions Article, an individual eligible for a special death benefit allowance under § 29-203(b), § 29-204(b), § 29-204.1, or § 29-204.2 of the State Personnel and Pensions Article may apply for a special death benefit allowance.

2. If an allowance was awarded under § 29–203(a), § 29–204(a), § 29–205, or § 29–206 of the State Personnel and Pensions Article prior to the effective date of this Act, an individual eligible for a special death benefit allowance under § 29–203(b), § 29–204(b), § 29–204.1, or § 29–204.2 of the State Personnel and Pensions Article may apply for a special death benefit allowance.

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

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

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

(3) (i) If the Board awards a special death benefit under paragraph ~~(2)~~ (2)(i)1 of this subsection, the special death benefit shall be permanently reduced by an amount equal to the actuarial present value of any death benefit paid under § 29–202(a)(3) of the State Personnel and Pensions Article.

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

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

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

(4) If the Board awards a special death benefit under paragraph (2)(i)2 of this subsection, the allowance paid under § 29–203(a), § 29–204(a), § 29–205, or § 29–206 shall be discontinued as of the effective date of this Act and the Board shall pay the special death benefit from the first day of the month following the effective date of this Act.

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

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

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

(2) The State Retirement Agency shall report to the Joint Committee on Pensions, in accordance with § 2–1257 of the State Government Article, on the number of special death benefits that have been provided for deaths caused by or contributed to by COVID–19:

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

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

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

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

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

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

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

(4) (i) The reports required under paragraphs (1) through (3) of this subsection shall include:

1. the unit of State government that employed the deceased member at the time of death; or

2. the participating employer that employed the deceased member at the time of death.

(ii) The information required under subparagraph (i) of this paragraph shall be presented in a manner that protects the privacy of a deceased member.

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

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.