

SUBJECT: Extending death benefits to survivors of chaplains of public safety units

COMMITTEE: Corrections — committee substitute recommended

VOTE: 4 ayes — Allen, Hopson, Alonzo, Haggerty

0 nays

3 absent — Stick, Farrar, Mabry

SENATE VOTE: On final passage, March 27 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

BACKGROUND: Under Government Code, ch. 615, if certain public safety workers are killed in the course of duty, a surviving spouse is entitled to receive a one-time sum of \$250,000. The statute covers peace officers, paid probation officers, parole officers, paid jailers, members of an organized police reserve, custodial personnel of the institutional or state jail division of the Texas Department of Criminal Justice (TDCJ), juvenile correctional employees of the Texas Youth Commission, a state employee certified by the Texas Commission on Fire Protection, a member of an organized volunteer firefighting unit of at least 20 active members, and emergency medical services personnel.

The 77th Legislature in 2001 enacted HB 877 by Flores, increasing the benefit from \$50,000 to the current amount. If there is no eligible surviving spouse, the state pays \$250,000 in equal shares to surviving children. If there is no eligible surviving spouse or child, the state pays \$250,000 in equal shares to surviving parents. For one surviving child, the legal guardian receives \$200 per month; for two surviving children, \$300 per month; and for three or more surviving children, \$400 until a child's 21st birthday. At that time, payments are adjusted for any remaining surviving children.

In June 2002, President Bush signed into law the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002. Among other measures, the law extends federal death benefits to families and other designees of police and fire chaplains killed in the line of duty.

DIGEST: CSSB 482 would amend Government Code, sec. 615.003 by adding a benefit category for survivors of chaplains who are killed in the line of duty while employed by an organized volunteer firefighting unit or other fire department, a law enforcement agency of the state or a political subdivision, or TDCJ. In determining eligibility for state assistance, any reasonable doubt arising from the circumstances of a person's death would have to be resolved in favor of payment to the survivor.

The bill would amend other sections of ch. 615 to specify that a surviving spouse, child, or parent of a qualifying public safety employee would be eligible for benefits if the employee died as the result of a personal injury sustained in the line of duty. "Personal injury" would mean a traumatic injury resulting from an external force or a disease caused by or resulting from a traumatic injury. "Line of duty" would mean an action that a qualified employee was required or authorized by rule, condition of employment, or law to perform. The term would include an action by the employee at a social, ceremonial, athletic, or other function to which the employee was assigned. The bill also would add a definition of "occupational death" among general provisions for the Employees Retirement System in Government Code, sec. 811.001, which would incorporate the language for "personal injury" and "line of duty" described above.

The bill would take effect September 1, 2003.

SUPPORTERS SAY: CSSB 482 would add chaplains of firefighting units, law enforcement agencies, or TDCJ to the list of public safety employees whose survivors would be eligible for death benefits if those employees were killed in the line of duty. This provision would parallel last year's federal legislation that extends federal death benefits to chaplains killed in the line of duty. The new federal law is named for Father Mychal Judge, a Catholic priest who served as a chaplain for the New York Fire Department and who was killed by falling debris as he administered last rites at the World Trade Center on September 11, 2001. CSSB 482 would extend state death benefits to chaplains who were killed by such horrific events while on official assignment.

The bill also would clarify current law to ensure that survivors of a public safety employee would receive financial assistance if the employee was killed while serving the public. Current law states only that survivors are eligible for

assistance if the employee died “in the course of the individual’s duty. . . as a result of exposure to a risk that is inherent in the duty, or to which the general public is not customarily exposed.” Some survivors have been denied rightful benefits because of ambiguity in the law surrounding the actions in which the employee must be engaged at the time of death. By defining the type of injury and actions that would qualify the employee for death benefits, CSSB 482 would eliminate confusion about survivors’ eligibility for benefits. The bill would add another safeguard for survivors by stating that any reasonable doubt arising from the circumstances of an employee’s death would be resolved in favor of payment to a survivor.

The bill’s potential fiscal impact, an estimated \$274,000 per year for each benefit paid, would be minor compared to the state’s indebtedness for the duties performed by these public servants. In this time of heightened awareness of the threats posed by terrorism, the state should reiterate its commitment to public safety employees.

**OPPONENTS
SAY:**

While it would be honorable for the state to extend death benefits to survivors of chaplains for police, firefighting units, and TDCJ who are killed in the line of duty, it should be cautious about adding commitments that could cost additional general revenue.

NOTES:

The committee substitute changed the Senate engrossed version of SB 482 by adding definitions of “personal injury” and “line of duty” and by specifying that any reasonable doubt arising from circumstances of a person’s death be resolved in favor of payment to the survivor.

A related bill, HB 2237 by Kuempel, which would extend death benefits to eligible survivors of a firefighter killed in the line of duty who served in an organized volunteer firefighting unit with at least 10 active members, rather than at least 20 members, as in current law, passed the House on May 10 and has been referred to the Senate Intergovernmental Relations Committee.