

ACT 44

H.B. NO. 192

A Bill for an Act Relating to Accidental Death Benefit.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-85, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-85 Accidental death benefit.** Upon the receipt of proper proofs of a member's death by the board of trustees, there shall be paid to the member's designated beneficiary or to his estate the amount of his accumulated contributions and if, upon the receipt of evidence or proofs that the death was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, or that the death was due to the result of some occupational hazard, the board shall decide that the death was the result of an accident in the performance of duty and not caused by willful negligence on the part of the member, there shall be paid in lieu of the ordinary death benefits provided by the contributions of the State and county, a pension of one-half of the average final compensation of the member:

- (1) To the surviving spouse of the member to continue until the surviving spouse remarries; or
- (2) If there be no surviving spouse, or if the surviving spouse dies or remarries before any child of the deceased member shall have attained

the age of eighteen years, then to his child or children under such age, divided in such manner as the board in its discretion shall determine, to continue as a joint and survivor pension of one-half of his final compensation until every child dies, or attains such age; or

- (3) If there is no surviving spouse or child under the age of eighteen years surviving the deceased member, then to his dependent father or dependent mother, as the deceased member shall have nominated by written designation duly acknowledged and filed with the board, or if there is no such nomination, then to his dependent father or to his dependent mother as the board, in its discretion, shall direct to continue for life.

Notwithstanding any other law to the contrary, any condition of impairment of health caused by any disease of the heart, lungs, or respiratory system, resulting in death to a fireman, police officer, or sewer worker, shall be presumed to have been suffered in the actual performance of duty at some definite time and place through no willful negligence on the fireman's, police officer's, or sewer worker's part, and as a result of the inherent occupational hazard of exposure to an inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors, unless the contrary be shown by competent evidence; provided that such fireman, police officer, or sewer worker shall have passed a physical examination on entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such condition."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.

SECTION 3. This Act shall take effect upon approval.

(Approved May 6, 1977.)