2020 First Extraordinary Session

HOUSE BILL NO. 71

BY REPRESENTATIVES DUPLESSIS, HUGHES, ADAMS, BRASS, BRYANT, CARPENTER, GARY CARTER, ROBBY CARTER, WILFORD CARTER, CORMIER, FREEMAN, GAINES, GREEN, JAMES, JEFFERSON, JENKINS, TRAVIS JOHNSON, JONES, JORDAN, LANDRY, LARVADAÎN, LYONS, MARCELLE, DUSTIN MILLER, MOORE, NEWELL, PIERRE, SELLERS, AND WILLARD

FUNDS/FUNDING: Provides for a death benefit for certain public employees who die from COVID-19 (Item #11)

AN ACT

To enact R.S. 36:4(B)(1)(cc) and Chapter 13-A of Title 42 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 42:1021, and to repeal, effective July 1, 2023, R.S. 36:4(B)(1)(cc) and Chapter 13-A of Title 42 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 42:1021, relative to a death benefit for certain employees of public healthcare facilities who died of COVID-19; to create a special fund in the treasury from which the benefit is paid, and a board to administer the fund and the benefit; to provide conditions of eligibility for the benefit; to provide for beneficiaries to whom a payment is made; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. This Act shall be known as the Larrice Anderson Act.

Section 2. Chapter 13-A of Title 42 of the Louisiana Revised Statutes of 1950, comprised of R.S. 42:1021, is hereby enacted to read as follows:

CHAPTER 13-A. COVID-19 DEATH BENEFIT

§1021. COVID-19 death benefit for certain public employees

A.(1) There is hereby established in the state treasury a special fund to be known as the COVID-19 Death Benefit Fund, hereinafter referred to as the "fund".

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
Interest earned on the investment of monies in the fund shall be deposited in and credited to the fund. Unexpended and unencumbered monies in the fund at the close of each fiscal year shall remain in the fund. Monies in the fund shall be appropriated, administered, and used solely for the purposes of paying a death benefit as provided by this Section.

(2) The fund shall be comprised of monies appropriated from State General Fund (Direct) from the Medical Vendor Payments budget unit to provide funding for the purposes of paying the death benefit as provided by this Section. All of such monies required to be deposited in the state treasury in accordance with Article VII, Section 9(A) of the Constitution of Louisiana shall be deposited in the fund after first meeting the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund.

B. The state shall pay a death benefit to the survivors or estate of an employee of a publicly owned healthcare facility in Louisiana who meets the following criteria:

(1) The employee reported for work after March 1, 2020.

(2) The employee tested positive for COVID-19 after reporting to work.

(3) The employee died prior to June 5, 2020, and COVID-19 caused or contributed to the death as documented by a licensed physician.

C. The benefit provided by this Section shall be paid to:

(1) The surviving spouse of the employee.

(2) The surviving child or children of the employee, if the employee is not survived by a spouse.

(3) The employee's estate, if the employee is not survived by a spouse or child.

D. The amount of the COVID-19 death benefit is three times the compensation received by the employee from the public healthcare facility in his final year of employment, not to exceed one hundred fifty thousand dollars per employee.
E. There is hereby created the COVID-19 Death Benefit Review Board which shall determine eligibility for receiving a COVID-19 death benefit and administer the fund created by this Section. The board shall consist of five licensed healthcare providers appointed by the governor. Each appointment by the governor is subject to Senate confirmation. In making his appointments the governor shall select three members nominated by the secretary of the Louisiana Department of Health; the secretary shall nominate two names for each vacancy to be filled. The governor shall appoint two other members, without nomination, who have at least twenty-five years of public health service. The board shall elect a chairman from its membership. A vacancy shall be filled in the manner of the original appointment.

F. A claimant for the COVID-19 death benefit shall submit an application to the board prior to December 31, 2022, and the board shall not consider an application filed after that date.

G. The board shall submit a report to the legislature on September 1, 2020, and every sixty days thereafter. The report shall include the number and amount of claims paid pursuant to this Section.

H. For purposes of this Section, the following terms shall have the following meanings:

(1) "Child" or "children" means any unmarried child under the age of eighteen years, or an unmarried student under the age of twenty-three years, who is the issue of a marriage of an employee; the legally adopted child of an employee; the natural child of a female employee; the child of an employee if a court of competent jurisdiction has made an order of filiation declaring the paternity of such employee for the child; or the child of a male employee who has been acknowledged in accordance with law by the male employee. In addition, the term "child" or "children" shall include a child of any age who meets the definition of "child" or "children", excepting the age requirement, who has a physical or mental disability, if medical or psychological information indicates such child is totally and permanently disabled and who is solely dependent upon the employee for support.
(2) "Employee" shall mean any direct patient care provider at a publicly
owned healthcare facility in Louisiana, including independent contractors.

(3) "Spouse" shall mean the lawfully married spouse of any employee from
whom there has not been obtained a judicial separation of bed and board or divorce
at the time of the employee's death.

Section 3. R.S. 36:4(B)(1)(cc) is hereby enacted to read as follows:

§4. Structure of executive branch of state government

*          *          *

B. The office of the governor shall be in the executive branch of state
government.

(1) The following agencies and their powers, duties, functions, and
responsibilities are hereby transferred to the office of the governor:

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(cc) The COVID-19 Death Benefit Review Board (R.S. 42:1021) is placed
in the office of the governor, division of administration, and shall perform and
exercise its powers, duties, functions, and responsibilities as provided in R.S. 36:802.

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Section 4. R.S. 36:4(B)(1)(cc) and Chapter 13-A of Title 42 of the Louisiana
Revised Statutes of 1950, comprised of R.S. 42:1021, are hereby repealed in their entirety.

Section 5. Any funds remaining in the COVID-19 Death Benefit Fund on July 1,
2023, shall be transferred to the state general fund.

Section 6.(A) Sections 1, 2, 3, and 5 and this Section of this Act shall become
effective upon signature of this Act by the governor or, if not signed by the governor, upon
expiration of the time for bills to become law without signature by the governor, as provided
by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the
governor and subsequently approved by the legislature, Sections 1, 2, 3, and 5 and this
Section of this Act shall become effective on the day following such approval.

(B) Section 4 of this Act shall become effective on July 1, 2023.
DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 71 Reengrossed 2020 First Extraordinary Session Duplessis

Abstract: Provides for a death benefit to be paid to the survivors or estate of employees of publicly owned healthcare facilities who die of COVID-19 under certain circumstances.

Proposed law provides for the payment of a death benefit to any employee of a publicly owned healthcare facility in La. who:

(1) Reported for work after March 1, 2020.
(2) Tested positive for COVID-19 after reporting to work.
(3) Died prior to June 5, 2020, and COVID-19 caused or contributed to the death.

Proposed law provides that the benefit shall be paid to:

(1) The surviving spouse of the employee.
(2) The surviving child or children of the employee, if the employee did not have a surviving spouse.
(3) The employee's estate, if the employee did not have a surviving spouse or children.

Proposed law defines employee as any direct patient care provider at a publicly owned healthcare facility in Louisiana, including independent contractors.

Proposed law provides that the amount of the benefit is three times the compensation received by the employee from the public healthcare facility in his final year of employment, not to exceed $150,000 per employee.

Proposed law creates a special fund in the treasury, monies from which shall be used to pay the benefit. Provides that the fund shall be comprised of monies appropriated from the State General Fund (Direct) from the Medical Vendor Payments budget unit.

Proposed law creates a five-member board to administer the fund and determine eligibility for a benefit. Provides that the board is composed of five licensed healthcare providers appointed by the governor. Further provides that the board submit a report including the number and amount of claims paid to the legislature beginning Sept. 1, 2020, and every 60 days thereafter.

Proposed law requires that applications for the benefit be filed by Dec. 31, 2022. Repeals proposed law and requires transfer of funds remaining in the special fund created by proposed law to the state general fund.

Effective upon signature of governor or lapse of time for gubernatorial action, except repeal which is effective July 1, 2023.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the original bill:

1. Add a requirement that the employee was a direct patient care provider.
2. Change the date the death must occur to qualify for the benefit from prior to December 31, 2020 to prior to June 5, 2020.
3. Add a requirement that the amount of benefit per employee shall not exceed $150,000.

The House Floor Amendments to the engrossed bill:

1. Include independent contractors for public healthcare facilities as employees eligible to receive the benefit.
2. Delete the requirement that the employee must have contracted COVID-19 within 45 days after a day he reported for work and instead require that the employee tested positive for COVID-19 after reporting to work.
3. Add definitions for eligible beneficiaries.
4. Add a requirement that the board report to the legislature beginning Sept. 1, 2020, on the number and amount of claims paid.
5. Require that the fund be comprised of monies appropriated from the State General Fund (Direct) from the Medical Vendor Payments budget unit.
6. Make technical changes.