
SENATE FLOOR AMENDMENTS

Amendments proposed by Senator Adley to Engrossed House Bill No. 143 by Representative Lorusso

AMENDMENT NO. 1

On page 1, after line 1 insert the following:

To enact R.S. 29:26.1 and to repeal R.S. 22:941(A)(5), relative to death and disability benefits for Louisiana National Guardsmen activated by the governor or the president; to remove authority for certain lump-sum payments of death and permanent disability benefits for Louisiana National Guardsmen activated by the governor or the President of the United States; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 29:26.1 is hereby enacted to read as follows:

§26.1. National Guard death and disability benefits

A. Purpose. The purpose of this Section is:

(1) To establish an effective and efficient mechanism for providing death and disability benefits for Louisiana National Guardsmen called to active duty service by the governor or the president of the United States.

(2) To govern the submission, evaluation, and determination of claims submitted pursuant to this Section.

B. Definitions. As used in this Section, the following terms shall have the following meanings unless a different meaning is clearly required by context:

(1) "Beneficiary", unless otherwise designated by the deceased guardsman as set forth in this Section, means the person or persons designated by the guardsman on DD Form 93, as eligible to receive the death gratuity from DoD pursuant to 10 U.S.C. 1475 et seq.

(2) "Course of business" means the performance of the business of the military forces of the state of Louisiana or the United States.

(3) "DD Form 93" means the record of emergency data executed by every member of the LANG pursuant to DoD policies and regulations.

(4) "Disabled or disability" means a physical condition affecting the ability of a guardsman to secure and follow a substantial and gainful occupation by reason of a service-connected injury or illness.

(5) "DoD" means the United States Department of Defense.

(6) "Guardsman or guardsmen" means an officer or enlisted member of the Louisiana National Guard.

(7) "LANG" means the Louisiana National Guard.

(8) "Period of activation" means any of the following:

(a) That period, subsequent to September 11, 2001, for which the governor of the state of Louisiana orders a guardsman into state active service pursuant to R.S. 29:7.

(b) That period, subsequent to September 11, 2001, for which the president of the United States orders a guardsman into active military duty, pursuant to 32 U.S.C. 502(f)(1).

(c) That period, subsequent to September 11, 2001, for which the president of the United States orders a guardsman to federal active duty pursuant to 10 U.S.C. 12301, 12302, or 12303.

(9) "Qualifying claim" means an application for benefits by a guardsman or beneficiary for a qualifying death or disability incurred during a period of activation in the line of duty, and meeting the documentation requirements of this Section.

(10) "Qualifying disability" means a one hundred percent permanent total disability rating, or a permanent and total unemployability disability rating as determined by the United States Department of Veterans Affairs and certified by the Louisiana secretary of veterans affairs in a final adjudication of the initial rating decision or as determined or certified by the proper state

1 entity that adjudicates such claims for guardsmen in accordance with the
 2 workers' compensation law of this state. A qualifying disability shall be
 3 certified by the Louisiana secretary of veterans affairs or his designee.

4 C. Claims for benefits. (1) All claims for death or disability benefits
 5 provided for under this Section shall be submitted to the Louisiana National
 6 Guard.

7 (2) Each death benefit claim request shall include all of the following
 8 documentation:

9 (a) The guardsman's signed LANG death beneficiary designation form,
 10 or in the absence thereof, a signed DD Form 93.

11 (b) DD Form 1300 Department of Defense Report of Casualty, or a valid
 12 death certificate issued by the state of the guardsman's domicile.

13 (c) A copy of the guardsman's state or federal orders or a copy of the
 14 guardsman's DD Form 214.

15 (d) A death benefit claim form signed by the claimant and certified by
 16 the adjutant general or his designee.

17 (3) Each claim for a disability benefit shall include all of the following
 18 documentation:

19 (a) A copy of the guardsman's state or federal orders or a copy of the
 20 guardsman's DD Form 214.

21 (b) A disability rating decision reached by the United States Department
 22 of Veterans Affairs and certified by the Louisiana secretary of veterans affairs
 23 or his designee.

24 (c) A disability rating decision reached by the proper state entity that
 25 adjudicates such claims for guardsmen in accordance with the workers'
 26 compensation law of this state and certified by the Louisiana secretary of
 27 veterans affairs or his designee.

28 (d) A disability benefit claim form signed by the claimant and certified
 29 by the secretary of the Louisiana Department of Veterans Affairs or his
 30 designee.

31 D.(1) Benefits available. During periods of activation, subsequent to
 32 September 11, 2001, of a guardsman ordered by the governor or by the
 33 president of the United States, benefits in a lump sum amount of two hundred
 34 fifty thousand dollars for a qualifying death and one hundred thousand dollars
 35 for a qualifying disability shall be paid by the state to a guardsman or his
 36 beneficiary, when such death or disability occurs during a period of activation
 37 in the line of duty as required by this Section. Such benefits shall be paid only
 38 when funds are available, having been appropriated for the purpose.

39 (2) No guardsman shall be eligible to receive benefits pursuant to the
 40 provisions of this Section if any of the following occur:

41 (a) An investigation determines that a killed or injured guardsman was
 42 not in the line of duty at the time of death or injury.

43 (b) The guardsman is killed or injured while in any training status
 44 pursuant to Title 29 of the Louisiana Revised Statutes of 1950 or Title 32 of the
 45 United States Code, except training pursuant to 32 U.S.C. 502(f)(2)(A).

46 E. Determination of eligibility for payment of benefits. (1) A qualifying
 47 death benefit eligibility and certification shall be made by the adjutant general
 48 of LANG, or his designee.

49 (2) A qualifying disability shall be determined by the United States
 50 Department of Veterans Affairs or by the proper state entity that adjudicates
 51 such claims for guardsmen in accordance with the workers' compensation law
 52 of this state and certified by the secretary of the Louisiana Department of
 53 Veterans Affairs or his designee.

54 (3) Payment to an eligible recipient for a qualified claim for a death
 55 benefit shall be made by the Military Department, state of Louisiana after
 56 certification of eligibility and request for payment are made as required by this
 57 Section.

58 (4) Payment to an eligible recipient of a qualified claim for a disability
 59 benefit shall be made by the Louisiana Department of Veterans Affairs after a
 60 determination by the United States Department of Veterans Affairs and

certification of eligibility by the secretary of the Louisiana Department of Veterans Affairs, and request for payment as required by this Section.

F. Beneficiary designation by guardsmen. (1) Each member of LANG shall complete and execute a Death Benefit Beneficiary Designation Form which shall contain the name of the beneficiary or beneficiaries of the guardsman's death benefit under this Section to whom this benefit shall be paid in a lump sum. In the absence of the Death Benefit Beneficiary Designation Form, a DD Form 93 shall be used.

(2) All designation forms shall be signed by the guardsman before a witness in the grade of E-7 or above in the LANG who shall also sign the form.

(3) All designation forms shall be kept in the personnel files of the LANG in the regular course of business.

Section 2. The provisions of this Act shall apply to guardsmen activated on or after September 11, 2001.

Section 3. Any death or disability benefits distributed to guardsmen or their beneficiaries prior to the effective date of this Act shall not be affected by the provisions of this Act.

Section 4. R.S. 22:941(A)(5) is hereby repealed.

Section 5. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for a bill to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

AMENDMENT NO. 2

On page 1, delete lines 2 through 20.

AMENDMENT NO. 3

On page 2, delete lines 1 through 28

AMENDMENT NO. 4

On page 3, delete lines 1 through 28

AMENDMENT NO. 5

On page 4, delete lines 1 through 5