

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 CONFERENCE COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 HOUSE BILL NO. 1044

6 By: Roberts, Collins, Mitchell,  
7 Leist, Begley, Easley,  
8 Ostrander, Gilbert, Turner  
9 and Covey of the House

10 and

11 Monson of the Senate

12 CONFERENCE COMMITTEE SUBSTITUTE

13 An Act relating to public retirement systems;  
14 amending 11 O.S. 1991, Section 49-113.2, as last  
15 amended by Section 1, Chapter 291, O.S.L. 1996 (11  
16 O.S. Supp. 1998, Section 49-113.2), which relates to  
17 the Oklahoma Firefighters Pension and Retirement  
18 System; amending 11 O.S. 1991, Sections 50-115, as  
19 amended by Section 5, Chapter 173, O.S.L. 1995 and  
20 50-115.2 (11 O.S. Supp. 1998, Section 50-115), which  
21 relate to the Oklahoma Police Pension and Retirement  
22 System; amending 20 O.S. 1991, Section 1103E, which  
23 relates to the Uniform Retirement System for Justices  
24 and Judges; amending 47 O.S. 1991, Section 2-306.3,  
25 which relates to the Oklahoma Law Enforcement  
26 Retirement System; amending 74 O.S. 1991, Section  
27 916.1, as amended by Section 1, Chapter 94, O.S.L.  
28 1995 (74 O.S. Supp. 1998, Section 916.1), which  
29 relates to the Oklahoma Public Employees Retirement  
30 System; modifying amount of death benefits payable;  
31 modifying procedures after initial disability benefit  
32 determination; modifying amount of benefit without  
requirement for probate; providing an effective date;  
and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 1991, Section 49-113.2, as  
last amended by Section 1, Chapter 291, O.S.L. 1996 (11 O.S. Supp.  
1998, Section 49-113.2), is amended to read as follows:

Section 49-113.2 A. Upon the death of an active or retired  
member, the System shall pay to the surviving spouse of the member  
if the surviving spouse has been married to the firefighter for  
thirty (30) continuous months preceding the member's death provided

1 a surviving spouse of a member who died while in, or as a  
2 consequence of, the performance of the member's duty for a  
3 participating municipality shall not be subject to the marriage  
4 limitation for survivor benefits, or if there is no surviving spouse  
5 or no surviving spouse meeting the requirements of this section, the  
6 System shall pay to the designated recipient or recipients of the  
7 member, or if there is no designated recipient or if the designated  
8 recipient predeceases the member, to the estate of the member, the  
9 sum of Four Thousand Dollars (\$4,000.00) for those active or retired  
10 members who died prior to July 1, 1999. For those active or retired  
11 members who die on or after July 1, 1999, the sum shall be Five  
12 Thousand Dollars (\$5,000.00).

13 B. Upon the death of a member who dies leaving no living  
14 designated recipient or having designated the member's estate as  
15 recipient, the System may pay any applicable death benefit which may  
16 be subject to probate, in an amount of ~~Four Thousand Dollars~~  
17 ~~(\$4,000.00)~~ Five Thousand Dollars (\$5,000.00), to the heir or heirs  
18 of the member without the intervention of a probate court or probate  
19 procedures.

20 C. Before any applicable probate procedure may be waived, the  
21 System must be in receipt of the member's proof of death and the  
22 following documents from those persons claiming to be the legal  
23 heirs of the deceased member:

- 24 1. The member's last will and testament if available;
- 25 2. An affidavit or affidavits of heirship which must contain:
  - 26 a. the names and signatures of all claiming heirs to the  
27 deceased member's estate including the claiming heirs'  
28 names, relationship to the deceased member, current  
29 addresses and current telephone numbers,
  - 30 b. a statement or statements by the claiming heirs that no  
31 application or petition for the appointment of a  
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1 personal representative is pending or has been granted  
2 in any jurisdiction,

3 c. a statement that the value of the deceased member's  
4 entire probate estate, less liens and encumbrances,  
5 does not exceed Ten Thousand Dollars (\$10,000.00),  
6 including the payment of benefits from the System, and

7 d. a statement by each individual claiming heir  
8 identifying the amount of personal property that the  
9 heir is claiming from the System or the amount the heir  
10 agrees to be paid to another person, and that the heir  
11 has been notified of, is aware of and consents to the  
12 identified claims of all the other claiming heirs of  
13 the deceased member pending with the System;

14 3. A written agreement or agreements signed by all claiming  
15 heirs of the deceased member which provides that the claiming heirs  
16 release, discharge and hold harmless the System from any and all  
17 liability, obligations and costs which it may incur as a result of  
18 making a payment to any of the deceased member's heirs;

19 4. A corroborating affidavit from an individual other than a  
20 claiming heir, who was familiar with the affairs of the deceased  
21 member; and

22 5. Proof that funeral and burial expenses of the deceased  
23 member have been paid or provided for.

24 D. The System shall retain complete discretion in determining  
25 which requests for probate waiver may be granted or denied, for any  
26 reason. Should the System have any questions as to the validity of  
27 any document presented by the claiming heirs, or as to any statement  
28 or assertion contained therein, the probate requirements provided  
29 for in Section 1 et seq. of Title 58 of the Oklahoma Statutes shall  
30 not be waived.

31 E. After paying any death benefits to any claiming heirs as  
32 provided pursuant to this section, the System is discharged and

1 released from any and all liability, obligation and costs to the  
2 same extent as if the System had paid a personal representative  
3 holding valid letters testamentary issued by a court of competent  
4 jurisdiction. The System is not required to inquire into the truth  
5 of any matter specified in this section or into the payment of any  
6 estate tax liability.

7 F. The provisions of this section shall not be subject to  
8 qualified domestic orders as provided in subsection B of Section 49-  
9 126 of this title.

10 SECTION 2. AMENDATORY 11 O.S. 1991, Section 50-115, as  
11 amended by Section 5, Chapter 173, O.S.L. 1995 (11 O.S. Supp. 1998,  
12 Section 50-115), is amended to read as follows:

13 Section 50-115. A. The State Board is authorized to pay a  
14 disability benefit to a member of the System or a pension to the  
15 beneficiaries of such member eligible as hereinafter provided, not  
16 exceeding the accrued retirement benefit of the member, except as  
17 otherwise provided in this article. Such disability benefit shall  
18 be payable immediately upon determination of eligibility. Any  
19 preexisting condition identified at the time of any initial or  
20 subsequent membership shall be used to offset the percentage of  
21 impairment to the whole person in determining any disability  
22 benefit. Once the initial disability benefit has been awarded by  
23 the Board on the basis of the percentage of impairment to the whole  
24 person, the member shall have no further recourse to increase the  
25 awarded percentage of impairment.

26 B. In order for any member to be eligible for any disability  
27 benefit, or the member's beneficiaries to be eligible for a pension,  
28 the member must have complied with any agreement as to contributions  
29 by the member and other members to any funds of the System where  
30 said agreement has been made as provided by this article; and the  
31 State Board must find:

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1 1. That the member incurred a permanent total disability or a  
2 permanent partial disability or died while in, and in consequence  
3 of, the performance of duty as an officer; or

4 2. That such member has served ten (10) years and incurred a  
5 permanent total disability or a permanent partial disability or has  
6 died from any cause.

7 C. In the event of the death of any member who has been awarded  
8 a disability benefit or is eligible therefor as provided in this  
9 article, the member's beneficiary shall be paid the benefit.

10 1. Upon determination by the State Board that a member is  
11 physically or mentally disabled and that the disability is permanent  
12 and total and was incurred while in, and in consequence of, the  
13 performance of duty as an officer, the member shall be awarded the  
14 normal disability benefit.

15 2. Upon determination by the State Board that a member is  
16 physically or mentally disabled and that the disability is permanent  
17 and partial and was incurred while in, and in consequence of, the  
18 performance of duty as an officer, the member shall be awarded a  
19 disability benefit on the basis of the percentage of impairment to  
20 the whole person, as defined by the most current standards of the  
21 impairment as outlined in the "American Medical Association's Guides  
22 to the Evaluation of Permanent Impairment", as provided in the  
23 following table:

24 1% to 24% impairment to whole person = 25% of the normal  
25 disability benefit

26 25% to 49% impairment to whole person = 50% of the normal  
27 disability benefit

28 50% to 74% impairment to whole person = 75% of the normal  
29 disability benefit

30 75% to 99% impairment to whole person = 90% of the normal  
31 disability benefit.

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1 Pursuant only to permanent partial disability incurred while in, and  
2 in consequence of, the performance of duty as an officer, if the  
3 participating municipality denies a disabled member the option of  
4 continuing employment instead of retiring under the above  
5 provisions, then the burden of proof rests with the participating  
6 municipality to show cause to the State Board that there is no  
7 position as a sworn officer within the police department of that  
8 municipality which the member can fill.

9 3. Upon determination by the State Board that a member is  
10 physically or mentally disabled and that the disability is permanent  
11 and total and that the member has completed ten (10) years of  
12 credited service and is disabled by any cause, the member shall  
13 receive a disability benefit on the basis of the member's accrued  
14 retirement benefit.

15 4. Upon determination by the State Board that a member is  
16 physically or mentally disabled and that the disability is permanent  
17 and partial and that the member has completed ten (10) years of  
18 credited service as a member and is disabled from any cause, the  
19 member shall be awarded a disability benefit on the basis of the  
20 member's years of credited service as a member and the percentage of  
21 impairment to the whole person, as defined by the most current  
22 standards of the impairment as outlined in the "American Medical  
23 Association's Guides to the Evaluation of Permanent Impairment", on  
24 the basis of the following table:

- 25 1% to 24% impaired = 25% of accrued retirement benefit
- 26 25% to 49% impaired = 50% of accrued retirement benefit
- 27 50% to 74% impaired = 75% of accrued retirement benefit
- 28 75% to 99% impaired = 90% of accrued retirement benefit.

29 5. Upon determination by the State Board that a member has  
30 completed ten (10) years of credited service and dies from any  
31 cause, the member's beneficiary shall receive the member's accrued  
32 retirement benefit.

1 D. Before making a finding as to the disability of a member,  
2 the State Board shall require that, if the member is able, the  
3 member shall make a certificate as to the disability which shall be  
4 subscribed and sworn to by the member. It shall also require a  
5 certificate as to such disability to be made by some physician  
6 licensed to practice in this state as selected by the State Board.  
7 The State Board may require other evidence of disability before  
8 making the disability benefit. The salary of any such member shall  
9 continue while the member is so necessarily confined to such  
10 hospital bed or home and necessarily requires medical care or  
11 professional nursing on account of such sickness or disability for a  
12 period of not more than six (6) months, after which said period the  
13 other provisions of this article may apply. The State Board, in  
14 making disability benefits, shall act upon the written request of  
15 the member or without such request, if it deem it for the good of  
16 the police department. Any disability benefits shall cease when the  
17 member receiving same shall be restored to active service at a  
18 salary not less than three-fourths (3/4) of the member's average  
19 monthly salary.

20 SECTION 3. AMENDATORY 11 O.S. 1991, Section 50-115.2, is  
21 amended to read as follows:

22 Section 50-115.2 Upon the death of an active or retired member,  
23 the Oklahoma Police Pension and Retirement System shall pay to the  
24 beneficiary of the member or if there is no beneficiary or if the  
25 beneficiary predeceases the member, to the estate of the member, the  
26 sum of Four Thousand Dollars (\$4,000.00) as a death benefit for  
27 those active or retired members who died prior to July 1, 1999. For  
28 those active or retired members who die on or after July 1, 1999,  
29 the sum shall be Five Thousand Dollars (\$5,000.00).

30 SECTION 4. AMENDATORY 20 O.S. 1991, Section 1103E, is  
31 amended to read as follows:

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1 Section 1103E. Upon the death of a retired member, the Uniform  
2 Retirement System for Justices and Judges shall pay to the  
3 beneficiary of the member or if there is no beneficiary or if the  
4 beneficiary predeceases the member, to the estate of the member, the  
5 sum of Four Thousand Dollars (\$4,000.00) as a death benefit for  
6 those retired members who died prior to July 1, 1999. For those  
7 retired members who die on or after July 1, 1999, the sum shall be  
8 Five Thousand Dollars (\$5,000.00).

9 SECTION 5. AMENDATORY 47 O.S. 1991, Section 2-306.3, is  
10 amended to read as follows:

11 Section 2-306.3 Upon the death of an active or retired member,  
12 the Oklahoma Law Enforcement Retirement System shall pay to the  
13 beneficiary of the member or if there is no beneficiary or if the  
14 beneficiary predeceases the member, to the estate of the member, the  
15 sum of Four Thousand Dollars (\$4,000.00) as a death benefit for  
16 those active or retired members who died prior to July 1, 1999. For  
17 those active or retired members who die on or after July 1, 1999,  
18 the sum shall be Five Thousand Dollars (\$5,000.00).

19 SECTION 6. AMENDATORY 74 O.S. 1991, Section 916.1, as  
20 amended by Section 1, Chapter 94, O.S.L. 1995 (74 O.S. Supp. 1998,  
21 Section 916.1), is amended to read as follows:

22 Section 916.1 A. Upon the death of a retired member, the  
23 Oklahoma Public Employees Retirement System shall pay to the  
24 beneficiary of the member or if there is no beneficiary or if the  
25 beneficiary predeceases the member, to the estate of the member, the  
26 sum of Four Thousand Dollars (\$4,000.00) as a death benefit for  
27 those retired members who died prior to July 1, 1999. For those  
28 retired members who died on or after July 1, 1999, the sum shall be  
29 Five Thousand Dollars (\$5,000.00).

30 B. Upon the death of a member who dies leaving no living  
31 beneficiary or having designated his estate as beneficiary, the  
32 System may pay any applicable death benefit, unpaid contributions,

1 or unpaid benefit which may be subject to probate, in an amount of  
2 Five Thousand Dollars (\$5,000.00) or less, without the intervention  
3 of the probate court or probate procedure pursuant to Section 1 et  
4 seq. of Title 58 of the Oklahoma Statutes.

5 1. Before any applicable probate procedure may be waived, the  
6 System must be in receipt of the member's proof of death and the  
7 following documents from those persons claiming to be the legal  
8 heirs of the deceased member:

9 a. the member's valid last will and testament,

10 b. an affidavit or affidavits of heirship which must  
11 state:

12 (1) the names and signatures of all claiming heirs to  
13 the deceased member's estate including the  
14 claiming heirs' names, relationship to the  
15 deceased, current addresses and current telephone  
16 numbers,

17 (2) a statement or statements by the claiming heirs  
18 that no application or petition for the  
19 appointment of a personal representative is  
20 pending or has been granted in any jurisdiction,

21 (3) a statement that the value of the deceased  
22 member's entire estate is subject to probate, and  
23 that the estate wherever located, less liens and  
24 encumbrances, does not exceed Five Thousand  
25 Dollars (\$5,000.00), including the payment of  
26 benefits or unpaid contributions from the System  
27 as authorized by this subsection,

28 (4) a description of the personal property claimed  
29 (i.e., death benefit or unpaid contributions or  
30 both), together with a statement that such  
31 personal property is subject to probate, and  
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1 (5) a statement by each individual claiming heir  
2 identifying the amount of personal property that  
3 the heir is claiming from the System, and that the  
4 heir has been notified of, is aware of and  
5 consents to the identified claims of all the other  
6 claiming heirs of the deceased member pending with  
7 the System,

8 c. a written agreement or agreements signed by all  
9 claiming heirs of the deceased member which provides  
10 that the claiming heirs release, discharge and hold  
11 harmless the System from any and all liability,  
12 obligations and costs which it may incur as a result of  
13 making a payment to any of the deceased member's heirs,

14 d. a corroborating affidavit from an individual other than  
15 a claiming heir, who was familiar with the affairs of  
16 the deceased member, and

17 e. proof that all debts of the deceased member, including  
18 payment of last sickness, hospital, medical, death,  
19 funeral and burial expenses have been paid or provided  
20 for.

21 2. The Executive Director of the System shall retain complete  
22 discretion in determining which requests for probate waiver may be  
23 granted or denied, for any reason. Should the System have any  
24 question as to the validity of any document presented by the  
25 claiming heirs, or as to any statement or assertion contained  
26 therein, the probate requirement provided for in Section 1 et seq.  
27 of Title 58 of the Oklahoma Statutes shall not be waived.

28 3. After paying any death benefits or unpaid contributions to  
29 any claiming heirs as provided pursuant to this subsection, the  
30 System is discharged and released from any and all liability,  
31 obligation and costs to the same extent as if the System had dealt  
32 with a personal representative of the deceased member. The System

1 is not required to inquire into the truth of any matter specified in  
2 this subsection or into the payment of any estate tax liability.

3 SECTION 7. This act shall become effective July 1, 1999.

4 SECTION 8. It being immediately necessary for the preservation  
5 of the public peace, health and safety, an emergency is hereby  
6 declared to exist, by reason whereof this act shall take effect and  
7 be in full force from and after its passage and approval.

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