

House Bill No. 1044

HOUSE BILL NO. 1044 -- By ROBERTS of the House and MONSON of the Senate.

An Act relating to the Oklahoma Firefighters Pension and Retirement System; amending 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), which relates to death benefits; increasing amount of benefit payable upon death; 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 a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality shall not be subject to the marriage limitation for survivor benefits, or if there is no surviving spouse or no surviving spouse meeting the requirements of this section, the System shall pay to the designated recipient or recipients of the member, or if there is no designated recipient or if the designated recipient predeceases the member, to the estate of the member, the sum of ~~Four Thousand Dollars (\$4,000.00)~~ Five Thousand Dollars (\$5,000.00).

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

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

1. The member's last will and testament if available;

2. An affidavit or affidavits of heirship which must contain:

- a. the names and signatures of all claiming heirs to the deceased member's estate including the claiming heirs' names, relationship to the deceased member, current addresses and current telephone numbers,
- b. a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,
- c. a statement that the value of the deceased member's entire probate estate, less liens and encumbrances, does not exceed Ten Thousand Dollars (\$10,000.00), including the payment of benefits from the System, and
- d. a statement by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System or the amount the heir agrees to be paid to another person, and that the heir has been notified of, is aware of and consents to the identified claims of all the other claiming heirs of the deceased member pending with the System;

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

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

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

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

E. After paying any death benefits to any claiming heirs as provided pursuant to this section, the System is discharged and released from any and all liability, obligation and costs to the same extent as if the System had paid a personal representative holding valid letters testamentary issued by a court of competent jurisdiction. The System is not required to inquire into the truth of any matter specified in this section or into the payment of any estate tax liability.

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

SECTION 2. This act shall become effective July 1, 1999.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT LAWS, dated 2-8-99 -- DO PASS, As Coauthored.