

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2355

By: Corn

AS INTRODUCED

An Act relating to the Oklahoma Law Enforcement Retirement System; amending 47 O.S. 1991, Section 2-306, as last amended by Section 7, Chapter 419, O.S.L. 1998 (47 O.S. Supp. 1999, Section 2-306), which relates to death benefits; modifying benefit payable based upon death under certain circumstances; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 2-306, as last amended by Section 7, Chapter 419, O.S.L. 1998 (47 O.S. Supp. 1999, Section 2-306), is amended to read as follows:

Section 2-306. A. Upon the death of a retired member or upon the death of any member prior to retirement or other termination of covered employment, a monthly pension shall be paid which shall be in an amount as provided below:

1. If the member was not retired and death occurred as the direct result of the performance of the member's duties as an officer, an amount equal to ~~the monthly payments which would have been received by the member under subsection C of Section 2-305 of this title, had the member been totally disabled:~~

- a. two and one-half percent (2.5%),
- b. multiplied by twenty (20) years of service, regardless of the actual number of years of credited service performed by the member prior to the date of death,

c. multiplied by a final average salary equal to the salary which the member would have received pursuant to statutory salary schedules in effect upon the date of death for twenty (20) years of service if the member did not actually perform twenty (20) years of service prior to death. If the member had performed twenty (20) or more years of service prior to death, the final average salary used in the computation provided in this paragraph shall be the actual final average salary of the member. The final average salary for a member who performed less than twenty (20) years of service prior to death shall be computed assuming that the member was paid the highest salary allowable pursuant to the law in effect at the time of the member's death based upon twenty (20) years of service and with an assumption that the member was eligible for any and all increases in pay based upon rank during the entire period. If the salary of a member is not prescribed by a specific salary schedule upon the date of the member's death, the final average salary for the member shall be computed by the member's actual final average salary or the highest median salary amount for a member whose salary was prescribed by a specific salary schedule upon the date of the member's death, whichever final average salary amount would be greater; or

2. If the member was not retired and death occurred other than as the direct result of the performance of the member's duties as an officer, an amount equal to the monthly payments which would have been received by the member under subsection D of Section 2-305 of this title had the member been totally disabled; or

3. If said member was retired for length of service, an amount equal to the member's monthly payments; or

4. If said member was retired for total disability, an amount equal to the member's monthly payments; or

5. If said member was retired for partial disability, an amount equal to the monthly payments which would have been received by said member had the member been totally disabled.

B. The pension provided for in subsection A of this section shall be paid:

1. Except as provided in paragraph 4 of this subsection, to the surviving spouse, provided the surviving spouse was married to the member at the time of the member's death, and continuously for the thirty (30) months immediately 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 the employer, shall not be subject to the thirty-month marriage requirement for survivor benefits; or

2. If there is no surviving spouse or upon the death of a spouse:

a. to the person having the care and custody of any surviving child or children of said member for such time as such child or children are under the age of eighteen (18) years, or

b. to the surviving child or children between the age of eighteen (18) and twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education;

3. If there is no surviving spouse or children under the age of eighteen (18) years or under the age of twenty-two (22) years if the child is enrolled full time in and is regularly attending a public

or private school or any institution of higher education, to the dependent parent or parents of said member, for life; or

4. In the event a surviving spouse remarried prior to June 7, 1993, and was a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for the employer, the surviving spouse shall be eligible to receive the pension benefits provided for in subsection A of this section.

To receive the pension benefits provided for in subsection A of this section the surviving spouse falling within this paragraph shall submit a written request for such benefits to the Oklahoma Law Enforcement Retirement System. The Oklahoma Law Enforcement Retirement System shall approve requests by surviving spouses meeting the requirements of this paragraph. Upon approval by the Oklahoma Law Enforcement Retirement System, the surviving spouse shall be entitled to the pension benefits provided for in subsection A of this section beginning from the date of approval forward. Pension benefits provided to surviving spouses falling within this paragraph shall not apply to alter any amount of pension benefits paid or due prior to the Oklahoma Law Enforcement Retirement System's approval of the remarried surviving spouse's written request for benefits.

No surviving spouse shall receive benefits from this section, Section 49-113 of Title 11 of the Oklahoma Statutes, or Section 50-117 of Title 11 of the Oklahoma Statutes as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

C. In addition to the pension above provided for, if said member leaves a surviving spouse and one or more children under the age of eighteen (18) years or under the age of twenty-two (22) years

if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education, One Hundred Dollars (\$100.00) a month shall be paid from said Fund for the support of each surviving child to the person having the care and custody of such children during such time as said spouse remains alive and until each child reaches the age of eighteen (18) years or reaches the age of twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education.

D. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

SECTION 2. This act shall become effective July 1, 2000.

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.

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