

**EHB 2166**

**THE STATE SENATE**  
**Monday, April 8, 2002**

**ENGROSSED**

**House Bill No. 2166**

**As Amended**

ENGROSSED HOUSE BILL NO. 2166 - By: EASLEY and LINDLEY of the House  
and ROBINSON of the Senate.

[ Oklahoma Firefighters Pension and Retirement System -  
amending 11 O.S., Section 49-113 - death benefits -  
surviving persons - effective date -  
emergency ]

SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-113, is  
amended to read as follows:

Section 49-113. A. In the event of the death for any cause of  
a fire fighter who at the time of the fire fighter's death was  
drawing a pension, or who at the time of the fire fighter's death  
(whether death occurred while on duty but not in or in consequence  
of the performance of duty or while on vacation or off duty) was  
eligible, upon written request to retire and draw a pension, the  
beneficiary of such person shall be paid an amount not to exceed one  
hundred percent (100%) of said pension. Effective March 1, 1997, if  
a fire fighter to whom a retirement benefit has been awarded or who  
is eligible therefor dies prior to the date as of which the total  
amount of retirement benefit paid equals the total amount of the  
employee contributions paid by or on behalf of the member and the

1 member does not have a surviving beneficiary, the total benefits  
2 paid as of the date of the member's death shall be subtracted from  
3 the accumulated employee contribution amount and the balance, if  
4 greater than zero (0), shall be paid to the member's estate.

5 B. In the event of the death of the surviving spouse, the  
6 pension shall cease, and should there then be but one living child  
7 same shall receive an amount equal to one hundred percent (100%) of  
8 said pension, but if there then be more than one living child, one  
9 hundred percent (100%) of said pension shall be divided equally  
10 between the children until each child reaches the age of eighteen  
11 (18) years or until the age of twenty-two (22) years if the child is  
12 enrolled full time and regularly attending a public or private  
13 school or any institution of higher education. Provided, that in  
14 the event the State Board finds that such a child who ~~has~~ is not  
15 married at the time of death of the member or the member's surviving  
16 spouse and who at the time the child reaches the age of eighteen  
17 (18) years is either physically or mentally disabled, the pension  
18 thereof shall continue so long as such disability remains; provided,  
19 further, that upon the death of the fire fighter and surviving  
20 spouse, said physically or mentally disabled child shall be entitled  
21 to have paid to the child's legally appointed guardian an amount not  
22 to exceed one hundred percent (100%) of said pension. The money so  
23 paid to the guardian shall be used solely for the benefit of the

1 disabled child and it shall be reported annually to the State Board.  
2 The payment so provided shall be calculated after payments have been  
3 made to all eligible children as provided in this section; provided  
4 further, that beneficiaries now receiving pensions under the  
5 provisions of Sections 49-112 or 49-113 of this title shall, upon  
6 application to the State Board, thereafter be entitled to a pension  
7 equal to the amount which they would have received if this act were  
8 in effect at the time the right to said pension accrued.

9 C. In the event a surviving spouse of a member remarried prior  
10 to June 7, 1993, ~~and was a surviving spouse of a member who died~~  
11 ~~while in, or as a consequence of, the performance of the member's~~  
12 ~~duty for the employer,~~ the surviving spouse shall be eligible to  
13 receive the pension benefits provided for in this section. To  
14 receive the pension benefits provided for in this section the  
15 surviving spouse falling within this section shall submit a written  
16 request for such benefits to the Oklahoma Firefighters Pension and  
17 Retirement System. The Oklahoma Firefighters Pension and Retirement  
18 System shall approve requests by surviving spouses meeting the  
19 requirements of this section. Upon approval by the Oklahoma  
20 Firefighters Pension and Retirement System, the surviving spouse  
21 shall be entitled to the pension benefits provided for in this  
22 section beginning from the date of approval forward. Pension  
23 benefits provided to surviving spouses falling within this section

1 shall not apply to alter any amount of pension benefits paid or due  
2 prior to the Oklahoma Firefighters Pension and Retirement System's  
3 approval of the remarried surviving spouse's written request for  
4 benefits.

5 D. No surviving spouse shall receive benefits from this  
6 section, Section 50-117 of this title, or Section 2-306 of Title 47  
7 of the Oklahoma Statutes as the surviving spouse of more than one  
8 member of the Oklahoma Firefighters Pension and Retirement System,  
9 the Oklahoma Police Pension and Retirement System, or the Oklahoma  
10 Law Enforcement Retirement System. The surviving spouse of more  
11 than one member shall elect which member's benefits he or she will  
12 receive.

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

19 F. Upon the death of an unmarried firefighter who has one or  
20 more children, said child or children shall receive pension benefits  
21 as provided in subsection B of this section as if the surviving  
22 spouse had died. If the unmarried firefighter has executed either a  
23 testamentary trust or an inter vivos trust that provides for the

1 care and education of the child or children, the System shall pay  
2 the trustee of the trust the pension benefits as provided in  
3 subsection B of this section.

4 SECTION 2. This act shall become effective July 1, 2002.

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

9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-3-02 - DO  
10 PASS, As Amended.