

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1343

By: Hobson

AS INTRODUCED

An Act relating to retirement; amending 11 O.S. 2001, Sections 49-113.2, as amended by Section 1, Chapter 352, O.S.L. 2002 and 49-117.1, as last amended by Section 7, Chapter 128, O.S.L. 2003 (11 O.S. Supp. 2005, Sections 49-113.2 and 49-117.1), which relate to the Oklahoma Firefighters Pension and Retirement System; specifying amount of death benefit for certain members; allowing certain members to be eligible for a death benefit; 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. 2001, Section 49-113.2, as amended by Section 1, Chapter 352, O.S.L. 2002 (11 O.S. Supp. 2005, Section 49-113.2), is amended to read as follows:

Section 49-113.2 A. 1. 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) for those active or retired members who died prior to July 1, 1999~~ specified in paragraph 2 of this subsection.

2. a. For those active or retired members who die on or after July 1, 1999, the sum shall be Five Thousand Dollars (\$5,000.00).

b. For members who have terminated service with a vested benefit before their normal retirement date pursuant to Section 49-117.1 of this title, the sum shall be as follows:

- (1) Five Hundred Dollars (\$500.00) for at least ten (10) years, but less than eleven (11) years of credited service,
- (2) One Thousand Dollars (\$1,000.00) for at least eleven (11) years, but less than twelve (12) years of credited service,
- (3) One Thousand Five Hundred Dollars (\$1,500.00) for at least twelve (12) years, but less than thirteen (13) years of credited service,
- (4) Two Thousand Dollars (\$2,000.00) for at least thirteen (13) years, but less than fourteen (14) years of credited service,
- (5) Two Thousand Five Hundred Dollars (\$2,500.00) for at least fourteen (14) years, but less than fifteen (15) years of credited service,
- (6) Three Thousand Dollars (\$3,000.00) for at least fifteen (15) years, but less than sixteen (16) years of credited service,
- (7) Three Thousand Five Hundred Dollars (\$3,500.00) for at least sixteen (16) years, but less than seventeen (17) years of credited service,
- (8) Four Thousand Dollars (\$4,000.00) for at least seventeen (17) years, but less than eighteen (18) years of credited service,

- (9) Four Thousand Five Hundred Dollars (\$4,500.00)
for at least eighteen (18) years, but less than
nineteen (19) years of credited service, and
- (10) Five Thousand Dollars (\$5,000.00) for nineteen
(19) years or more of credited service.

3. The benefit payable pursuant to this subsection shall be deemed, for purposes of federal income taxation, as life insurance proceeds and not as a death benefit if the Internal Revenue Service approves this provision pursuant to a private letter ruling request which shall be submitted by the board of trustees of the System for that purpose.

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~~ the appropriate amount ~~of Five Thousand Dollars (\$5,000.00)~~ specified in subsection A of this section, 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.

G. 1. For purposes of this section, if a person makes a qualified disclaimer with respect to the death benefit provided for in subsection A of this section, this section shall apply with respect to such death benefit as if the death benefit had never been transferred to such person.

2. For purposes of this subsection, the term "qualified disclaimer" means an irrevocable and unqualified refusal by a person, including but not limited to the surviving spouse of the deceased member, to accept an interest in the death benefit provided for in subsection A of this section, but only if:

- a. such refusal is in writing,
- b. such writing is received by the System not later than the date which is nine (9) months after the date of death of the deceased member,
- c. such person has not accepted the death benefit provided for in subsection A of this section, and
- d. as a result of such refusal, the death benefit provided for in subsection A of this section passes without any direction on the part of the person making the disclaimer and passes first, to the organization providing funeral and burial services for the deceased member or, if the cost of the funeral and burial services for the deceased member has already been paid, to the person or persons other than the person

making the disclaimer as further provided for in this section.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-117.1, as last amended by Section 7, Chapter 128, O.S.L. 2003 (11 O.S. Supp. 2005, Section 49-117.1), is amended to read as follows:

Section 49-117.1 A. A member who terminates service before normal retirement date, other than by death or disability shall, upon application filed with the State Board, be refunded from the Fund an amount equal to the accumulated contributions the member has made to the Fund, but excluding any interest or any amount contributed by the municipality or state. If a member has completed ten (10) years of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving the member's accumulated contributions.

B. If the member who has completed ten (10) or more years of credited service elects the vested benefit, the member shall be entitled to a monthly retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of credited service. ~~The~~

C. Except as otherwise provided for in this subsection, the death benefits provided for in ~~this article~~ Section 49-113.2 of this title shall not apply to any member retiring under the provisions of this section. The death benefits provided in Section 49-113.2 of this title shall apply to any member who joins the Oklahoma Firefighters Pension and Retirement System on or after the effective date of this act. Members who elected a vested benefit and terminated service prior to the effective date of this act may elect

by December 31, 2006, to be eligible for the death benefit provided in Section 49-113.2 of this title.

D. If a member who terminates employment and elects a vested benefit dies prior to being eligible to receive benefits, the member's beneficiary shall be entitled to the member's normal monthly retirement benefit on the date the deceased member would have been eligible to receive the benefit.

E. If a member terminates employment and withdraws the member's accumulated contributions and then subsequently rejoins the System, ~~he~~ the member may pay to the System the sum of the accumulated contributions ~~he~~ the member has withdrawn plus five percent (5%) annual interest from the date of withdrawal and shall receive the same benefits as if ~~he~~ the member had never withdrawn ~~his~~ the contributions; however, effective January 1, 1991, the rate of interest provided herein shall be ten percent (10%) per annum.

F. Effective January 1, 2002, lump-sum payments for repayment of any amounts received because of a member's prior termination with interest may be repaid by a trustee-to-trustee transfer from a Code Section 403(b) annuity, a governmental Code Section 457 plan, and/or a Code Section 401(a) qualified plan.

G. A fire fighter shall not be permitted to withdraw from the System while employed as a fire fighter in a participating municipality.

SECTION 3. This act shall become effective July 1, 2006.

SECTION 4. 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.