

1 ENGROSSED HOUSE
2 BILL NO. 3128

By: Dorman, Smithson, Brannon,
Roan, Holland and McAffrey
of the House

3
4 and

Barrington of the Senate

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9 An Act relating to state government; amending 74 O.S.
10 2001, Section 916.1, as amended by Section 6, Chapter
11 352, O.S.L. 2002 (74 O.S. Supp. 2009, Section 916.1)
12 which relates to the payment of death benefits for
13 public employees; allowing the assignment of death
14 benefits of certain members to entities authorized to
15 provide funeral services; and providing an effective
16 date.

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

18 SECTION 1. AMENDATORY 74 O.S. 2001, Section 916.1, as
19 amended by Section 6, Chapter 352, O.S.L. 2002 (74 O.S. Supp. 2009,
20 Section 916.1), is amended to read as follows:

21 Section 916.1 A. Upon the death of a retired member, the
22 Oklahoma Public Employees Retirement System shall pay to the
23 beneficiary of the member or if there is no beneficiary or if the
24 beneficiary predeceases the member, to the estate of the member, the
sum of Four Thousand Dollars (\$4,000.00) as a death benefit for

1 those retired members who died prior to July 1, 1999. For those
2 retired members who died on or after July 1, 1999, the sum shall be
3 Five Thousand Dollars (\$5,000.00). The benefit payable pursuant to
4 this subsection shall be deemed, for purposes of federal income
5 taxation, as life insurance proceeds and not as a death benefit if
6 the Internal Revenue Service approves this provision pursuant to a
7 private letter ruling request which shall be submitted by the board
8 of trustees of the System for that purpose.

9 B. Upon the death of a member who dies leaving no living
10 beneficiary or having designated his estate as beneficiary, the
11 System may pay any applicable death benefit, unpaid contributions,
12 or unpaid benefit which may be subject to probate, in an amount of
13 Ten Thousand Dollars (\$10,000.00) or less, without the intervention
14 of the probate court or probate procedure pursuant to Section 1 et
15 seq. of Title 58 of the Oklahoma Statutes.

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

- 20 a. the member's valid last will and testament, trust
21 documents or affidavit that a will does not exist,
22 b. an affidavit or affidavits of heirship which must
23 state:
24

- 1 (1) the names and signatures of all claiming heirs to
2 the deceased member's estate including the
3 claiming heirs' names, relationship to the
4 deceased, current addresses and current telephone
5 numbers,
- 6 (2) a statement or statements by the claiming heirs
7 that no application or petition for the
8 appointment of a personal representative is
9 pending or has been granted in any jurisdiction,
- 10 (3) a statement that the value of the deceased
11 member's entire estate is subject to probate, and
12 that the estate wherever located, less liens and
13 encumbrances, does not exceed Ten Thousand
14 Dollars (\$10,000.00), including the payment of
15 benefits or unpaid contributions from the System
16 as authorized by this subsection,
- 17 (4) a description of the personal property claimed
18 (i.e., death benefit or unpaid contributions or
19 both), together with a statement that such
20 personal property is subject to probate, and
- 21 (5) a statement by each individual claiming heir
22 identifying the amount of personal property that
23 the heir is claiming from the System, and that
24 the heir has been notified of, is aware of and

1 consents to the identified claims of all the
2 other claiming heirs of the deceased member
3 pending with the System,

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

11 d. a corroborating affidavit from an individual other
12 than a claiming heir, who was familiar with the
13 affairs of the deceased member, and

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

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

