

1 THE STATE SENATE
2 Monday, March 22, 2010

3 ENGROSSED

4 House Bill No. 3128

EHB 3128

5 ENGROSSED HOUSE BILL NO. 3128 - By: Dorman, Smithson, Brannon, Roan,
6 Holland and McAffrey of the House and Barrington of the Senate.

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

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

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

18 Section 916.1 A. Upon the death of a retired member, the
19 Oklahoma Public Employees Retirement System shall pay to the
20 beneficiary of the member or if there is no beneficiary or if the
21 beneficiary predeceases the member, to the estate of the member, the
22 sum of Four Thousand Dollars (\$4,000.00) as a death benefit for
23 those retired members who died prior to July 1, 1999. For those
24 retired members who died on or after July 1, 1999, the sum shall be
25 Five Thousand Dollars (\$5,000.00). The benefit payable pursuant to
26 this subsection shall be deemed, for purposes of federal income
27 taxation, as life insurance proceeds and not as a death benefit if

1 the Internal Revenue Service approves this provision pursuant to a
2 private letter ruling request which shall be submitted by the board
3 of trustees of the System for that purpose.

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

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

15 a. the member's valid last will and testament, trust
16 documents or affidavit that a will does not exist,

17 b. an affidavit or affidavits of heirship which must
18 state:

19 (1) the names and signatures of all claiming heirs to
20 the deceased member's estate including the
21 claiming heirs' names, relationship to the
22 deceased, current addresses and current telephone
23 numbers,

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

- 1 c. a written agreement or agreements signed by all
2 claiming heirs of the deceased member which provides
3 that the claiming heirs release, discharge and hold
4 harmless the System from any and all liability,
5 obligations and costs which it may incur as a result
6 of making a payment to any of the deceased member's
7 heirs,
- 8 d. a corroborating affidavit from an individual other
9 than a claiming heir, who was familiar with the
10 affairs of the deceased member, and
- 11 e. proof that all debts of the deceased member, including
12 payment of last sickness, hospital, medical, death,
13 funeral and burial expenses have been paid or provided
14 for.

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

22 3. After paying any death benefits or unpaid contributions to
23 any claiming heirs as provided pursuant to this subsection, the

1 System is discharged and released from any and all liability,
2 obligation and costs to the same extent as if the System had dealt
3 with a personal representative of the deceased member. The System
4 is not required to inquire into the truth of any matter specified in
5 this subsection or into the payment of any estate tax liability.

6 C. Death benefits provided pursuant to this section may be
7 assigned by the beneficiary to a person licensed as a funeral
8 director or to a lawfully recognized business entity licensed as
9 required by law to provide funeral services for the deceased member.

10 SECTION 2. This act shall become effective November 1, 2010.

11 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
12 3-18-10 - DO PASS.