

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 2004

By: Dorman of the House

and

Shortey of the Senate

AS INTRODUCED

An Act relating to public retirement systems; amending 70 O.S. 2001, Section 17-105, as last amended by Section 2, Chapter 357, O.S.L. 2010 (70 O.S. Supp. 2010, Section 17-105), which relates to certain death benefits; providing for disclaimer of benefits; providing for transfer of disclaimed benefits to certain licensed funeral directors; prescribing procedural requirements; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2001, Section 17-105, as last amended by Section 2, Chapter 357, O.S.L. 2010 (70 O.S. Supp. 2010, Section 17-105), is amended to read as follows:

Section 17-105. (1) (a) Any member who has attained age fifty-five (55) or who has completed thirty (30) years of creditable service, as defined in Section 17-101 of this title, or for any person who initially became a member prior to July 1, 1992,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 regardless of whether there were breaks in service after July 1,
2 1992, whose age and number of years of creditable service total
3 eighty (80) may be retired upon filing a written application for
4 such retirement. Such a retirement date will also apply to any
5 person who became a member of the sending system as defined in this
6 act, prior to July 1, 1992, regardless of whether there were breaks
7 in service after July 1, 1992. Any person who became a member after
8 June 30, 1992, whose age and number of years of creditable service
9 total ninety (90) may be retired upon filing a written application
10 for such retirement. The application shall be filed on the form
11 provided by the Board of Trustees for this purpose, not less than
12 thirty (30) days nor more than ninety (90) days before the date of
13 retirement.

14 (b) An individual who becomes a member of the Teachers'
15 Retirement System after July 1, 1967, shall be employed by the
16 public schools, state colleges or universities of Oklahoma for a
17 minimum of five (5) years and be a contributing member of the
18 Teachers' Retirement System of Oklahoma for a minimum of five (5)
19 years to qualify for monthly retirement benefits from the Teachers'
20 Retirement System of Oklahoma.

21 (c) Any member with five (5) or more years of Oklahoma teaching
22 service and whose accumulated contributions during such period have
23 not been withdrawn shall be given an indefinite extension of
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1 membership beginning with the sixth year following his or her last
2 contributing membership and shall become eligible to apply for
3 retirement and be retired upon attaining age fifty-five (55).

4 (2) An unclassified optional member who has retired or who
5 retires at sixty-two (62) years of age or older or whose retirement
6 is because of disability shall have his or her minimum retirement
7 benefits calculated on an average salary of Five Thousand Three
8 Hundred Fifty Dollars (\$5,350.00) or, if a larger monthly allowance
9 would result, an amount arrived at pursuant to application of the
10 formula prescribed herein.

11 (3) No member shall receive a lesser retirement benefit than he
12 or she would have received under the law in effect at the time he or
13 she retired. Any individual under the Teachers' Retirement System,
14 who through error in stating the title of the position which he or
15 she held, may, at the discretion of the Board of Trustees, be
16 changed from the nonclassified optional group to the classified
17 group for the purpose of calculating retirement benefits.

18 Any individual regardless of residence, who has a minimum of ten
19 (10) years of teaching in Oklahoma schools prior to July 1, 1943, or
20 who taught in Oklahoma schools prior to 1934 and thereafter taught a
21 minimum of ten (10) years and who does not qualify under the present
22 retirement System, or who has a minimum of thirty (30) years of
23 teaching in Oklahoma schools and has reached seventy (70) years of

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1 age prior to July 1, 1984, and is not otherwise eligible to receive
2 any benefits from the retirement system shall receive a minimum of
3 One Hundred Fifty Dollars (\$150.00) per month in retirement benefits
4 from the Teachers' Retirement System of Oklahoma plus any general
5 increase in benefits for annuitants as may be provided hereafter by
6 the Legislature. Each individual must apply to the Teachers'
7 Retirement System for such benefit and provide evidence to the
8 Teachers' Retirement System that the service was actually rendered.
9 The surviving spouse of any person who made application for the
10 benefit provided for by this paragraph during his or her lifetime
11 but did not receive said benefit may submit an application to the
12 System for payment of said benefit for those months during the
13 lifetime of the deceased person that he or she was eligible for but
14 did not receive the benefit. Upon approval of the application by
15 the Board of Trustees, the benefit shall be paid to the surviving
16 spouse in one lump sum.

17 (4) The value of each year of prior service is the total
18 monthly retirement benefit divided by the number of years of
19 creditable service.

20 (5) Upon application of a member who is actively engaged in
21 teaching in Oklahoma or his or her employer, any member who has been
22 a contributing member for ten (10) years may be retired by the Board
23 of Trustees not less than thirty (30) days nor more than ninety (90)

1 days subsequent to the execution and filing thereof, on a disability
2 retirement allowance, provided that it is found by the Board of
3 Trustees after medical examination of such member by a duly
4 qualified physician that such member is mentally or physically
5 incapacitated for further performance of duty, that such incapacity
6 is likely to be permanent, and that such member should be retired.
7 The Board of Trustees shall give due consideration to the
8 conclusions and recommendations in the certified written report of
9 the Medical Board of the Teachers' Retirement System regarding the
10 disability application of such member. If a member is determined to
11 be eligible for disability benefits pursuant to the Social Security
12 System, then such determination shall entitle the member to the
13 authorized disability retirement allowance provided by law. For
14 members who are not eligible for disability benefits pursuant to the
15 Social Security System, the Board of Trustees shall apply the same
16 standard for which provision is made in the first two sentences of
17 this subsection for determining the eligibility of a person for such
18 disability benefits in making a determination of eligibility for
19 disability benefits as authorized by this subsection.

20 (6) (a) A member who at the time of retirement has been found
21 to be permanently physically or mentally incapacitated to teach
22 school shall receive a minimum monthly retirement payment for life
23 or until such time as the member may be found to be recovered to the
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1 point where he or she may return to teaching. Any member retired
2 before July 1, 1992 shall be eligible to receive the monthly
3 retirement allowance herein provided, but such payment shall not
4 begin until the first payment due him or her after July 1, 1992, and
5 shall not be retroactive. The Board of Trustees is empowered to
6 make such rules and regulations as it considers proper to preserve
7 equity in retirements under this provision, which shall include a
8 provision to protect the rights of the member's spouse.

9 (b) A member who has qualified for retirement benefits under
10 disability retirement shall have the total monthly payment deducted
11 from his or her accumulated contributions plus interest earned and
12 any money remaining in the member's account after the above
13 deductions at the death of the member shall be paid in a lump sum to
14 the beneficiary or to the estate of the member. Provided, if the
15 deceased disabled member had thirty (30) years or more of creditable
16 service and the death occurred after June 30, 1981, and death
17 occurred prior to the disabled member receiving twelve monthly
18 retirement payments, a surviving spouse may elect to receive the
19 retirement benefit to which the deceased member would have been
20 entitled at the time of death under the Option 2 Plan of Retirement
21 provided for in subsection (8) of this section in lieu of the death
22 benefit provided for in this subsection and in subsection (12) of
23 this section.

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1 (c) Once each year the Board of Trustees may require any
2 disabled annuitant who has not yet attained the age of sixty (60)
3 years to undergo a medical examination, such examination to be made
4 at the place of residence for said disabled annuitant or other place
5 mutually agreed upon by a physician or physicians designated by the
6 Board of Trustees. Should any disabled annuitant who has not yet
7 attained the age of sixty (60) years refuse to submit to at least
8 one medical examination in any such year by a physician or
9 physicians designated by the Board of Trustees his or her allowance
10 may be discontinued until he or she submits to such examination.

11 (d) Should the Medical Board report and certify to the Board of
12 Trustees that such disabled annuitant is engaged in or is able to
13 engage in a gainful occupation paying more than the difference
14 between his or her retirement allowance and the average final
15 compensation, and should the Board of Trustees concur in such report
16 then the amount of his or her pension shall be reduced to an amount
17 which, together with his or her retirement allowance and that amount
18 earnable by him or her, shall equal the amount of his or her average
19 final compensation. Should his or her earning capacity be later
20 increased, the amount of his or her pension may be further modified,
21 provided the new pension shall not exceed that amount of the pension
22 originally granted nor an amount, which when added to the amount

1 | earnable by the member, together with his or her annuity, equals the
2 | amount of his or her average final compensation.

3 | (e) Should a disabled annuitant be restored to active service,
4 | his or her disability retirement allowance shall cease and he or she
5 | shall again become a member of the Teachers' Retirement System and
6 | shall make regular contributions as required under this article.
7 | The unused portion of his or her accumulated contributions shall be
8 | reestablished to his or her credit in the Teachers' Savings Fund.
9 | Any such prior service certificates on the basis of which his or her
10 | service was computed at the time of his or her retirement shall be
11 | restored to full force and effect.

12 | (7) Should a member before retirement under Section 1-101 et
13 | seq. of this title make application for withdrawal duly filed with
14 | the Board of Trustees and approved by it, not earlier than four (4)
15 | months after the date of termination of such service as a teacher,
16 | the contribution standing to the credit of his or her individual
17 | account in the Teachers' Savings Fund shall be paid to him or her
18 | or, in the event of his or her death before retirement, shall be
19 | paid to such person or persons as he or she shall have nominated by
20 | written designation, duly executed and filed with the Board of
21 | Trustees; provided, however, if there be no designated beneficiary
22 | surviving upon such death, such contributions shall be paid to his
23 | or her administrators, executors, or assigns, together with interest

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1 as hereinafter provided. In lieu of a lump-sum settlement at the
2 death of the member, the amount of money the member has on deposit
3 in the Teachers' Savings Fund and the money the member has on
4 deposit in the Teachers' Deposit Fund may be paid in monthly
5 payments to a designated beneficiary, who must be the spouse, under
6 the Maximum or Option 1 Plan of Retirement providing the monthly
7 payment shall be not less than Twenty-five Dollars (\$25.00) per
8 month. The monthly payment shall be the actuarial equivalent of the
9 amount becoming due at the member's death based on the sex of the
10 spouse and the age the spouse has attained at the last birthday
11 prior to the member's death. Provided further, if there be no
12 designated beneficiary surviving upon such death, and the
13 contributions standing to the credit of such member do not exceed
14 Two Hundred Dollars (\$200.00), no part of such contributions shall
15 be subject to the payment of any expense of the last illness or
16 funeral of the deceased member or any expense of administration of
17 the estate of such deceased and the Board of Trustees, upon
18 satisfactory proof of the death of such member and of the name or
19 names of the person or persons who would be entitled to receive such
20 contributions under the laws of descent and distribution of the
21 state, may authorize the payment of accumulated contributions to
22 such person or persons. A member terminating his or her membership
23 by withdrawal after June 30, 2003, shall have the interest computed

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1 at a rate of interest determined by the Board of Trustees and paid
2 to him or her subject to the following schedule:

3 (a) If termination occurs within sixteen (16) years from the
4 date membership began, fifty percent (50%) of such interest
5 accumulations shall be paid.

6 (b) With at least sixteen (16) but less than twenty-one (21)
7 years of membership, sixty percent (60%) of such interest
8 accumulations shall be paid.

9 (c) With at least twenty-one (21) but less than twenty-six (26)
10 years of membership, seventy-five percent (75%) of such interest
11 accumulations shall be paid.

12 (d) With at least twenty-six (26) years of membership, ninety
13 percent (90%) of such interest accumulations shall be paid.

14 In case of death of an active member, the interest shall be
15 calculated and restored to the member's account and paid to his or
16 her beneficiary.

17 (8) (a) In lieu of his or her retirement allowance payable
18 throughout life for such an amount as determined under this section,
19 the member may select a retirement allowance for a reduced amount
20 payable under any of the following options the present value of
21 which is the actuarial equivalent thereof.

22 (b) A member may select the option under which he or she
23 desires to retire at the end of the school year in which he or she

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1 attains age seventy (70) and said option shall be binding and cannot
2 be changed. Provided further that if a member retires before age
3 seventy (70), no election of an option shall be effective in case an
4 annuitant dies before the first payment due under such option has
5 been received.

6 (c) The first payment of any benefit selected shall be made on
7 the first day of the month following approval of the retirement by
8 the Board of Trustees. If the named designated beneficiary under
9 Option 2 or 3 dies at any time after the member's retirement date,
10 but before the death of the member, the member shall return to the
11 retirement benefit, including any post retirement benefit increases
12 the member would have received had the member not selected Option 2
13 or 3 of this subsection. The benefit shall be determined at the
14 date of death of the designated beneficiary or July 1, 1994,
15 whichever is later. This increase shall become effective the first
16 day of the month following the date of death of the designated
17 beneficiary or July 1, 1994, whichever is later, and shall be
18 payable for the member's remaining lifetime. The member shall
19 notify the Teachers' Retirement System of Oklahoma of the death of
20 the designated beneficiary in writing. In the absence of said
21 written notice being filed by the member notifying the Teachers'
22 Retirement System of Oklahoma of the death of the designated
23 beneficiary within six (6) months of the date of death, nothing in

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1 this subsection shall require the Teachers' Retirement System of
2 Oklahoma to pay more than six (6) months of retrospective benefits
3 increase.

4 Option 1. If he or she dies before he or she has received in
5 annuity payments the present value of his or her annuity as it was
6 at the time of his or her retirement, the balance shall be paid to
7 his or her legal representatives or to such person as he or she
8 shall nominate by written designation duly acknowledged and filed
9 with the Board of Trustees at the time of his or her retirement; or

10 Option 2. A member takes a reduced retirement allowance for
11 life. Upon the death of the member the payments shall continue to
12 the member's designated beneficiary for the life of the beneficiary.
13 The written designation of the beneficiary must be duly acknowledged
14 and filed with the Board of Trustees at the time of the member's
15 retirement and, except as provided in paragraph (e) of this
16 subsection, cannot be changed after the effective date of the
17 member's retirement; or

18 Option 3. A member receives a reduced retirement allowance for
19 life. Upon the death of the member one-half (1/2) of the retirement
20 allowance paid the member shall be continued throughout the life of
21 the designated beneficiary. A written designation of a beneficiary
22 must be duly acknowledged and filed with the Board of Trustees at
23 the time of the member's retirement and, except as provided in

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1 paragraph (e) of this subsection, cannot be changed after the
2 effective date of the member's retirement; or

3 Option 4. Some other benefit or benefits shall be paid either
4 to the member or to such person or persons as he or she shall
5 nominate, provided such other benefit or benefits, together with the
6 reduced retirement allowance, shall be certified by the actuary to
7 be of equivalent actuarial value to his or her retirement allowance
8 and shall be approved by the Board of Trustees.

9 (d) Provided that Option 2 and Option 3 shall not be available
10 if the member's expected benefit is less than fifty percent (50%) of
11 the lump-sum actuarial equivalent and the designated beneficiary is
12 not the spouse of the member.

13 (e) A member who chose the maximum retirement benefit plan at
14 the time of retirement may make a one-time election to choose either
15 Option 2 or 3 and name the member's spouse as designated beneficiary
16 if the member marries after making the initial election. Such an
17 election shall be made by July 1, 2011, or within one (1) year of
18 the date of marriage, whichever is later. The member shall provide
19 proof of a member's good health before the Board of Trustees will
20 permit a change to either Option 2 or 3 and the naming of a
21 designated beneficiary. A medical examination conducted by a
22 licensed physician is required for purposes of determining good
23 health. Such examination must be approved by the Medical Board.

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1 The member shall be required to provide proof of age for the new
2 beneficiary. The Board of Trustees shall adjust the monthly benefit
3 to the actuarially equivalent amount based on the new designated
4 beneficiary's age. The Board of Trustees shall promulgate rules to
5 implement the provisions of this subsection.

6 (f) A member who retires after the effective date of this act
7 and has selected a retirement allowance for a reduced amount payable
8 under one of the options provided for in this subsection may make a
9 one-time irrevocable election to select a different option within
10 sixty (60) days of the member's retirement date. The beneficiary
11 designated by the member at the time of retirement shall not be
12 changed if the member makes the election provided for in this
13 paragraph.

14 (9) The governing board of any "public school", as that term is
15 defined in Section 17-101 of this title, is hereby authorized and
16 empowered to pay additional retirement allowances or compensation to
17 any person who was in the employ of such public school for not less
18 than seven (7) school years preceding the date of his or her
19 retirement. Payments so made shall be a proper charge against the
20 current appropriation or appropriations of any such public school
21 for salaries for the fiscal year in which such payments are made.
22 Such payments shall be made in regular monthly installments in such
23 amounts as the governing board of any such public school, in its

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1 judgment, shall determine to be reasonable and appropriate in view
2 of the length and type of service rendered by any such person to
3 such public school by which such person was employed at the time of
4 retirement. All such additional payments shall be uniform, based
5 upon the length of service and the type of services performed, to
6 persons formerly employed by such public school who have retired or
7 been retired in accordance with the provisions of Section 1-101 et
8 seq. of this title.

9 The governing board of any such public school may adopt rules
10 and regulations of general application outlining the terms and
11 conditions under which such additional retirement benefits shall be
12 paid, and all decisions of such board shall be final.

13 (10) In addition to the teachers' retirement herein provided,
14 teachers may voluntarily avail themselves of the Federal Social
15 Security Program upon a district basis.

16 (11) Upon the death of an in-service member, the System shall
17 pay to the designated beneficiary of the member or, if there is no
18 designated beneficiary or if the designated beneficiary predeceases
19 the member, to the estate of the member, the sum of Eighteen
20 Thousand Dollars (\$18,000.00) as a death benefit. Provided, if the
21 deceased member had ten (10) years or more of creditable service and
22 the death occurred after February 1, 1985, the member's designated
23 beneficiary may elect to receive the retirement benefit to which the

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1 deceased member would have been entitled at the time of death under
2 the Option 2 plan of retirement in lieu of the death benefit
3 provided for in this subsection. Provided further, the option
4 provided in this subsection is only available when the member has
5 designated one individual as the designated beneficiary. ~~Death~~ The
6 beneficiary or beneficiaries of death benefits in the amount not to
7 exceed Eighteen Thousand Dollars (\$18,000.00), but exclusive of any
8 retirement benefit received by an electing beneficiary based upon
9 creditable service performed by the deceased member, which are
10 provided pursuant to this subsection may ~~be assigned by the~~
11 beneficiary elect to disclaim such death benefits in which case such
12 benefits will be transferred to a person licensed as a funeral
13 director or to a lawfully recognized business entity licensed as
14 required by law to provide funeral services for the deceased member.
15 The qualified disclaimer must be in writing and will be an
16 irrevocable and an unqualified refusal to accept all or a portion of
17 the death benefit. It must be received by the transferor no more
18 than nine (9) months after the later of the day the transfer
19 creating the interest in the disclaiming person is made or the day
20 the disclaiming person attains age twenty-one (21). The interest in
21 the death benefits must pass without direction by the disclaiming
22 person to another person.

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1 (12) Upon the death of an annuitant who has contributed to the
2 System, the retirement system shall pay to the designated
3 beneficiary of the annuitant or, if there is no designated
4 beneficiary or if the designated beneficiary predeceases the
5 annuitant, to the estate of the annuitant, the sum of Five Thousand
6 Dollars (\$5,000.00) as a death benefit. ~~Death~~ The beneficiary or
7 beneficiaries of benefits provided pursuant to this subsection may
8 ~~be assigned by the beneficiary~~ elect to disclaim such death benefits
9 in which case such benefits will be transferred to a person licensed
10 as a funeral director or to a lawfully recognized business entity
11 licensed as required by law to provide funeral services for the
12 deceased member. The qualified disclaimer must be in writing and
13 will be an irrevocable and an unqualified refusal to accept all or a
14 portion of the death benefit. It must be received by the transferor
15 no more than nine (9) months after the later of the day the transfer
16 creating the interest in the disclaiming person is made or the day
17 the disclaiming person attains age twenty-one (21). The interest in
18 the death benefits must pass without direction by the disclaiming
19 person to another person. The benefit payable pursuant to this
20 subsection shall be deemed, for purposes of federal income taxation,
21 as life insurance proceeds and not as a death benefit if the
22 Internal Revenue Service approves this provision pursuant to a

1 private letter ruling request which shall be submitted by the board
2 of trustees of the System for that purpose.

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

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

- 14 1. The member's valid last will and testament;
- 15 2. An affidavit or affidavits of heirship which must
16 state:
 - 17 a. the names and signatures of all claiming heirs to
18 the deceased member's estate including the
19 claiming heirs' names, relationship to the
20 deceased, current addresses and current telephone
21 numbers,
 - 22 b. a statement or statements by the claiming heirs
23 that no application or petition for the

- 1 appointment of a personal representative is
2 pending or has been granted in any jurisdiction,
3 c. a statement that the value of the deceased
4 member's entire estate is subject to probate, and
5 that the estate wherever located, less liens and
6 encumbrances, does not exceed Five Thousand
7 Dollars (\$5,000.00), including the payment of
8 benefits or unpaid contributions from the System
9 as authorized by this subsection,
10 d. a description of the personal property claimed,
11 (i.e., death benefit or unpaid contributions or
12 both) together with a statement that such
13 personal property is subject to probate,
14 e. a statement by each individual claiming heir
15 identifying the amount of personal property that
16 the heir is claiming from the System, and that
17 the heir has been notified of, is aware of and
18 consents to the identified claims of all the
19 other claiming heirs of the deceased member
20 pending with the System;

- 21 3. A written agreement or agreements signed by all
22 claiming heirs of the deceased member which provides
23 that the claiming heirs release, discharge and hold
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1 harmless the System from any and all liability,
2 obligations and costs which it may incur as a result
3 of making a payment to any of the deceased member's
4 heirs;

5 4. A corroborating affidavit from an individual other
6 than a claiming heir, who was familiar with the
7 affairs of the deceased member;

8 5. Proof that all debts of the deceased member, including
9 payment of last sickness, hospital, medical, death,
10 funeral and burial expenses have been paid or provided
11 for.

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

19 (c) After paying any death benefits or unpaid contributions to
20 any claiming heirs as provided pursuant to this subsection, the
21 System is discharged and released from any and all liability,
22 obligation and costs to the same extent as if the System had dealt
23 with a personal representative of the deceased member. The System
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1 is not required to inquire into the truth of any matter specified in
2 this subsection or into the payment of any estate tax liability.

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

9 SECTION 2. This act shall become effective July 1, 2011.

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

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15 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
16 02-24-2011 - DO PASS, As Coauthored.

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