

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S1/23/01 S2/13/01

A Bill

Act 356 of 2001
SENATE BILL 73

5 By: Senator Faris
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND DEATH BENEFIT PROVISIONS FOR THE
10 ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO
11 PROVIDE FOR DEATH BENEFITS FOR CERTAIN FORMER MEMBERS
12 WITH FIVE OR MORE YEARS OF ACTUAL SERVICE; TO DECLARE
13 AN EMERGENCY; AND FOR OTHER PURPOSES.
14

Subtitle

15 AN ACT TO PROVIDE FOR DEATH BENEFITS FOR
16 CERTAIN FORMER MEMBERS.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code 24-4-608, *as amended by Act 151 of 2001*, is
23 amended to read as follows:

24 24-4-608. Payment of benefits upon death of member before retirement -
25 Exception.

26 (a) ~~Effective July 1, 2001, if an active member or former member~~
27 ~~with five (5) or more years of actual service, including credited service for~~
28 ~~the year immediately preceding his death, dies in employer service before~~
29 ~~retirement, the applicable benefits provided in this section shall be paid~~
30 ~~upon written application to the Board of Trustees of the Arkansas Public~~
31 ~~Employees' Retirement System.~~

32 ~~(b)(1)(A) In the event that a member dies and is not being paid on~~
33 ~~that date by his employer due solely to illness incurred before he left the~~
34 ~~payroll and the death occurs within one (1) year of the last payroll, or if~~
35 ~~the member's death occurs on or after July 1, 1998, and long term disability~~
36 ~~provided by the employer was being paid at the time of death and the date of~~

1 death is within eighteen (18) months of the last payroll, then the member
 2 shall be considered, for purposes of this section, to have died as an active
 3 member if all other necessary provisions of this section are met.

4 ~~(B)~~(b) For purposes of computing benefits provided by this section,
 5 the deceased member's or former member's compensation at the time of death
 6 shall be his compensation for the year immediately preceding the cessation of
 7 his pay.

8 ~~(2)~~ If an active member with five (5) or more years of credited
 9 service does not have credited service for the year immediately preceding
 10 death due to illness which eventually leads to his death or due to his
 11 employer's removing the member from the payroll because of temporary economic
 12 conditions of the employer or weather conditions, the active member shall be
 13 considered, only for eligibility purposes of this section, to have credited
 14 service for the year preceding death, and benefits shall be paid according to
 15 the compensation earned during the year preceding death.

16 (c)(1) A member's or former member's surviving spouse who was married
 17 to the member at least the one (1) year immediately preceding his death shall
 18 receive an annuity computed in the same manner in all respects as if the
 19 member or former member had:

20 (A) Retired the date of his death with entitlement to an
 21 annuity provided for in § 24-4-601;

22 (B) Elected the Option B75 survivor annuity provided for
 23 in § 24-4-606(a)(4); and

24 (C) Nominated his spouse as joint beneficiary.

25 (2)(A) If the member or former member had satisfied the age and
 26 service requirements provided for in ~~§ 24-4-508~~ § 24-4-101 or had acquired
 27 twenty (20) years of *actual* service, the spouse annuity shall commence
 28 immediately and be payable for life. If the member or former member had not
 29 satisfied the age and service requirement provided for in ~~§ 24-4-508~~ § 24-4-
 30 101 or had not acquired twenty (20) years of *actual* service, then the spouse
 31 annuity shall commence immediately and be payable until the earlier of his
 32 remarriage or death.

33 (B) A surviving spouse who is otherwise eligible but whose
 34 benefit has been deferred because the spouse did not meet the age
 35 requirements in effect before July 1, 1999, shall be eligible to commence a
 36 spouse annuity effective July 1, 1999. The spouse annuity shall not be

1 retroactive.

2 (3) The spouse annuity shall not be less than ten percent (10%)
3 of the deceased member's or former member's covered compensation at the time
4 of death.

5 (4) In any event, as long as the surviving spouse has in her
6 care any of the deceased member's or former member's dependent children
7 receiving a benefit provided for in this section, there shall be payable to
8 her a spouse annuity as indicated in this section which shall not be less
9 than ten percent (10%) of the deceased member's or former member's
10 compensation at the time of death.

11 (d)(1)(A) A member's or former member's dependent child or dependent
12 children shall each receive an annuity of the greater of either ten percent
13 (10%) of the member's or former member's covered compensation at the time of
14 death or an equal share of one hundred fifty dollars (\$150) monthly.

15 (B) Where there are three (3) or more dependent children,
16 each dependent child shall receive an annuity of an equal share of the
17 greater of either twenty-five percent (25%) of the covered compensation or
18 one hundred fifty dollars (\$150) monthly.

19 (2)(A) A child shall be a dependent child until his death, his
20 marriage, or his attainment of age eighteen (18), whichever occurs first.

21 (B)(i) However, the age eighteen (18) maximum shall be
22 extended as long as the child continues uninterruptedly being a full-time
23 student at an accredited secondary school, college, or university, but in no
24 event beyond his attainment of age twenty-three (23).

25 (ii) In addition, the age eighteen (18) maximum
26 shall be extended for any child who has been deemed physically or mentally
27 incompetent by an Arkansas court of competent jurisdiction, or by the Board
28 of Trustees of the Arkansas Public Employees' Retirement System, for as long
29 as the incompetency exists.

30 (3) Upon a child's ceasing to be a dependent child, his annuity
31 shall terminate, and there shall be a redetermination of the amounts payable
32 to any remaining dependent children.

33 (e) If, at the time of the member's or former member's death, there is
34 neither a spouse nor a dependent child, each dependent parent shall receive
35 an allowance of the greater of ten percent (10%) of the covered compensation
36 or an equal share of one hundred fifty dollars (\$150) monthly, but only if

1 the board finds that the parent was dependent for at least fifty percent
2 (50%) of his financial support upon the member or former member.

3 (f)(1) If no annuity can become payable to a dependent child due to
4 the death of the member or former member and a surviving spouse or dependent
5 parents are the only persons who will be eligible for monthly benefits and
6 the spouse or dependent parents are also the designated beneficiaries of the
7 member or former member, then, in that event, the surviving spouse or
8 dependent parents may elect to receive a refund of the member's or former
9 member's accumulated contributions as provided in § 24-4-602(d) in lieu of
10 any benefits which could become payable under this act.

11 (2) The option to choose a refund of the member's or former
12 member's contributions shall also be afforded to any spouse or dependent
13 parent qualified under this section whose eligibility for the benefit
14 occurred before the passage of this act and who could not exercise the
15 option.

16 (3) Once the refund of the deceased member's or former member's
17 accumulated contributions has been made to the surviving spouse or dependent
18 parents under this section, the person shall have no future claim to monthly
19 retirement benefits due to the death of the member or former member.

20 (g)(1) In the event that all the annuities provided for in this
21 section, payable on account of the death of a member or former member,
22 terminate before there has been paid an aggregate amount equal to his
23 accumulated contributions standing to his credit in the members' deposit
24 account at the time of his death, the difference between the accumulated
25 contributions and the aggregate amount of annuity payments shall be paid to
26 such person as he shall have nominated by written designation duly executed
27 and filed with the board.

28 (2) If there is no designated person surviving at termination,
29 the difference shall be paid to the member's or former member's estate.

30 (h) Annuities payable under the provisions of this section shall be
31 effective the first day of the calendar month next following the date of the
32 member's or former member's death or the first day of the month following the
33 month in which the survivor becomes eligible for benefits as provided by law.

34 (i) The provisions of this section shall not be applicable in
35 determining survivor benefits under the General Assembly Division or the
36 State Constitutional Officers' Division of the Arkansas Public Employees'

1 Retirement System if a benefit is provided to the surviving spouse by other
2 laws applicable to the system.

3 (j) The benefits provided in this section for former members shall not
4 apply to former members who terminated covered employment prior to July 1,
5 1997 with less than ten (10) years of service or whose death occurred before
6 July 1, 2001.

7
8 SECTION 2 . [THE ARKANSAS CODE REVISION COMMISSION IS NOT REQUIRED TO
9 CODIFY THIS SECTION.] No benefit enhancement provided for by this act shall
10 be implemented if it would cause the publicly supported retirement system's
11 unfunded actuarial accrued liabilities to exceed a thirty (30) year
12 amortization. No benefit enhancement provided for by this act shall be
13 implemented by any publicly supported system which has unfunded actuarial
14 accrued liabilities being amortized over a period exceeding thirty (30) years
15 until the unfunded actuarial accrued liability is reduced to a level less
16 than the standards prescribed by Arkansas Code, Title 24.

17
18 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
19 Eighty-third General Assembly that for the effective administration of this
20 act and to avoid undue harm to the members and benefit recipients of the
21 Arkansas Public Employees' Retirement System this act should become effective
22 on July 1, 2001. Therefore, an emergency is declared to exist and this act
23 being immediately necessary for the preservation of the public peace, health,
24 and safety shall become effective on July 1, 2001.

25 /s/ Fari s

26
27
28 APPROVED: 2/22/2001
29
30
31
32
33
34
35
36