

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Senator Bookout

SENATE BILL14

"AN ACT TO AMEND SECTION 15 OF ACT 907 OF 1975, AS AMENDED [ARK. STAT. 12-2511.12], SECTION 1 OF ACT 85 OF 1971, AS AMENDED [ARK. STAT. 12-2510.12], AND SUBSECTION 11 OF SECTION 5 OF ACT 793 OF 1977, AS AMENDED [ARK. STAT. 12-3305(5.11)] TO PROVIDE THAT RETIREMENT BENEFITS IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM CONTINUE BEYOND THE REMARRIAGE OF THE WIDOW OF A DECEASED ACTIVE MEMBER; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 15 of Act 907 of 1975, as amended, the same being Arkansas Statute 12-2511.12, is hereby amended to read as follows:

"Section 15. If an active member with five (5) or more years of credited service, including credited service for the year immediately preceding his death, dies in employer service before retirement, the applicable benefits provided in this Section shall be paid, upon written application to the Board.

(A) However, in the event that a member dies and is not being paid on that date by his employer, due solely to illness incurred before he left such payroll, and such death occurs within one (1) year of such last payroll; such member shall be considered for purposes of this section to have died as an active member if all other necessary provisions of this section are met, and for purposes of computing benefits provided by this section the deceased member's compensation at time of death shall be his compensation for the year immediately preceding the cessation of his pay. In addition, if an active member with five (5) or more years of credited service does not have credited service for the year immediately preceding death due (1) to illness which eventually leads to his death or due (2) to his employer removing such member from the payroll because of temporary economic conditions of the employer or weather conditions; such active member shall be considered only for eligi-

bility purposes of this section to have credited service for the year preceding death and benefits shall be paid according to the compensation earned during the year preceding death. Provided, however, that if a member died between July 1, 1982 and March 22, 1983, such surviving spouse, dependent children or dependent parents shall be eligible for the benefits provided in this section if the member's contributions have not been refunded or if refunded, such contributions and interest are repaid to the System plus six percent (6%) compound interest from the date withdrawn to the date repaid. The effective date of the benefits provided in this section shall in no event be prior to the first day of the calendar month next following the date payment is received by the System.

(B) The surviving spouse, who was married to a member at least one (1) year immediately preceding the member's death, shall receive an annuity computed in the same manner in all respects as if such member had (1) retired the date of the death with entitlement to an annuity provided for in subsection 11.A of Section 11 of Act 177 of 1957, as amended; (2) elected the Option B75 survivor Annuity provided for in subsection 11.E of Section 11 of Act 177 of 1957, as amended; and (3) nominated such spouse as joint beneficiary. If such member had satisfied the age and service requirements provided for in subsection 10.A of Section 10 of Act 177 of 1957, as amended, or had acquired twenty (20) years credited service, such spouse annuity shall commence immediately and be payable for their life; or if such member had acquired fifteen (15) years credited service but had not attained age sixty-five (65) years, such spouse annuity shall commence at the later of age fifty (50) years or their age at the spouse's death, and be payable for the surviving spouse's life; otherwise, such spouse annuity shall commence at the later age of sixty-two (62) or their age at the spouse's death and shall be payable for the surviving spouse's lifetime. Such spouse annuity shall not be less than ten percent (10%) of the deceased member's covered compensation at time of death.

The dependent child or dependent children shall each receive an annuity of the greater of (1) ten percent (10%) of such member's covered compensation at time of death; or (2) fifty dollars (\$50.00) monthly; provided, while there are three (3) or more such dependent children, each dependent child shall receive an annuity of equal share of the greater of (1) twenty-five percent (25%) of such covered compensation, or (2) one hundred twenty-five dollars (\$125.00) monthly. A child shall be a dependent child until his death or his

marriage or his attainment of age eighteen (18), whichever occurs first; provided the age 18 maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school or college or university, but in no event beyond his attainment of age twenty-three (23); provided, further the age 18 maximum shall be extended for any child who has been deemed physically or mentally incompetent by an Arkansas court of competent jurisdiction (or by the Board), for as long as such incompetency exists. Upon a child's ceasing to be a dependent child, his annuity shall terminate and there shall be a redetermination of the amounts payable to any remaining dependent children.

If, at any time of such member's death, there is neither a spouse nor a dependent child, each dependent parent shall receive an allowance of the greater of (1) ten percent (10%) of such covered compensation, or (2) fifty dollars (\$50.00) monthly; provided, the Board finds that such parent was dependent for at least fifty percent (50%) of his financial support upon such member.

If no annuity can become payable to a dependent child due to the death of the member and a surviving spouse or dependent parents are the only persons who will be eligible for monthly benefits and such spouse or dependent parents are also the designated beneficiaries of the member, then in that event, such surviving spouse or dependent parent may elect to receive a refund of the member's accumulated contributions as provided in Arkansas Statutes (1947) Section 12.2511C(b) in lieu of any benefits which could become payable under this Act.

This option to choose a refund of the member's contribution shall also be afforded to any spouse or dependent parent qualified under this Section whose eligibility for such benefit occurred before the passage of this Act and who could not exercise such option. Once the refund of the deceased member's accumulated contributions has been made to the surviving spouse or dependent parents under this Section, such person will have no future claim to monthly retirement benefits due to the death of the member. In the event all the annuities provided for in this Section, payable on account of the death of a member, terminate before there has been paid an aggregate amount equal to his accumulated contributions standing to his credit in the member's deposit account at the time of his death, the difference between such accumulated contributions and said aggregate amount of annuity payments shall be paid to

such person as he shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person surviving at termination, such difference shall be paid to the member's estate.

Annuities payable under the provisions of this Section shall be effective the first day of the calendar month next following the date of the member's death or the first day of the month following the month in which the survivor becomes eligible for benefits as provided by law."

SECTION 2. Section 1 of Act 85 of 1971, as amended, the same being Arkansas Statute 12-2510.12, is hereby amended to read as follows:

"Section 1. If any member of the General Assembly who has served in the House of Representatives and/or the Senate for at least ten (10) years, or a State elected constitutional officer who has served as a State elected constitutional officer for at least ten (10) years, hereafter dies or has heretofore died while serving a term in the General Assembly, or while serving a term as a State elected constitutional officer, and while a member of the Public Employees' Retirement System, or hereafter dies or has heretofore died while drawing benefits under said System, or after having established a deferred annuity under such System, and leaves a surviving spouse, the surviving spouse of such member shall be entitled to receive an annuity equal to the amount of the full annuity the member was receiving or would have been entitled to receive had he been of retirement age. Such spouse shall begin to receive the survivor benefits herein provided upon reaching the age at which the member would have been eligible to receive benefits under the System with the years of service he had under the System. The benefits shall be payable for the lifetime of the surviving spouse.

Any person elected to and serving as a member of the House of Representatives or the Senate of the Arkansas General Assembly who dies before completing the term for which elected, shall continue to accrue service credit for retirement eligibility and for determining eligibility of the spouse of such member for survivor benefits until the person is elected and qualified to fill the position vacated by the death of such member.

The provisions of this Section shall not be construed to require or authorize retroactive payments or retroactive increase in payments to any survivor of a deceased member of the General Assembly."

SECTION 3. Subsection 11 of Section 5 of Act 793 of 1977, as amended, the same being Arkansas Statute 12-3305(5.11), is hereby amended to read as follows:

"5.11 (a) If an active member with five (5) or more years of credited service, including credited service for the year immediately preceding his death, dies in employer service before retirement, the applicable benefits provided in this Section shall be paid, upon written application to the Board.

(A) However, in the event that a member dies and is not being paid on that date by his employer, due solely to illness incurred before he left such payroll, and such death occurs within one (1) year of such last payroll; such member shall be considered for purposes of this section to have died as an active member if all other necessary provisions of this section are met, and for purposes of computing benefits provided by this section the deceased member's compensation at time of death shall be his compensation for the year immediately preceding the cessation of his pay. In addition, if an active member with five (5) or more years of credited service does not have credited service for the year immediately preceding death due (1) to illness which eventually leads to his death or due (2) to his employer removing such member from the payroll because of temporary economic conditions of the employer or weather conditions; such active member shall be considered only for eligibility purposes of this section to have credited service for the year preceding death and benefits shall be paid according to the compensation earned during the year preceding death. (1) Provided, however, that if a member died between July 1, 1982 and March 22, 1983, the effective date of (A) above, such surviving spouse, dependent children or dependent parents shall be eligible for the benefits provided in this section if the member's contributions have not been refunded or if refunded, such contributions and interest are repaid to the System plus six percent (6%) compound interest from the date withdrawn to the date repaid. The effective date of benefits provided in this section shall in no event be prior to the first day of the calendar month next following the date payment is received by the System.

(B) The surviving spouse, who was married to the member at least the one (1) year immediately preceding the member's death, shall receive an annuity computed in the same manner in all respects as if such member had (1) retired the date of their death with entitlement to an annuity provided for in Section 5.03,

(2) elected the Option B-75 survivor annuity provided for in Section 5.04 and (3) nominated such spouse as joint beneficiary. If such member has satisfied the age and service requirement provided for in Section 5.01, or had acquired twenty (20) years credited service, such spouse annuity shall commence immediately and be payable for the surviving spouse's life; or if such member had acquired fifteen (15) years credited service but had not attained age sixty-five (65) years such spouse annuity shall commence at the later of age fifty (50)

or the surviving spouse's age at the member's death and be payable for the surviving spouse's lifetime; otherwise, such spouse annuity shall commence at the latter of age sixty-two (62) or the surviving spouse's age at the member's death and payable for the surviving spouse's lifetime. Such spouse annuity shall not be less than ten percent (10%) of the deceased member's covered compensation at time of death.

The dependent child or dependent children shall each receive an annuity of the greater of (1) ten percent (10%) of such member's covered compensation at time of death or (2) \$50 monthly; provided, while there are three (3) or more such dependent children, each dependent child shall receive as annuity an equal share of the greater of (1) twenty-five percent (25%) of such covered compensation or (2) \$125 monthly. A child shall be a dependent child until his death or his marriage or his attainment of age eighteen (18), whichever occurs first; provided the age of eighteen (18) maximum shall be extended as long as the child continues uninterruptedly being a full time student at an accredited secondary school or college or university, but in no event beyond his attainment of age twenty-three (23); provided further the age eighteen (18) maximum shall be extended for any child who has been deemed physically or mentally incompetent by an Arkansas court of competent jurisdiction (or by the Board), for as long as such incompetency exists. Upon a child ceasing to be a dependent child, his annuity shall terminate and there shall be a redetermination of the amounts payable to any remaining dependent children.

If, at the time such member's death, there is neither a spouse nor a dependent child, each dependent parent shall receive an allowance of the greater of (1) ten percent (10%) of such covered compensation or (2) \$50 monthly; provided, the Board finds that such parent was dependent for at least fifty percent (50%) of his financial support upon such member.

If no annuity can become payable to a dependent child due to the death of the member and a surviving spouse or dependent parents are the only persons who will be eligible for monthly benefits and such spouse or dependent parents are also the designated beneficiaries of the member, then in that event, such surviving spouse or dependent parent may elect to receive a refund of the member's accumulated contributions as provided in Arkansas Statutes (1947) Section 25-2511 C (b) in lieu of any benefits which could become payable under this Act.

This option to choose a refund of the member's contribution shall also be afforded to any spouse or dependent parent qualified under this Section whose eligibility for such benefit occurred before the passage of this Act and who could not exercise such option. Once the refund of the deceased member's accumulated contributions has been made to the surviving spouse or dependent parents under this Section, such person will have no future claim to monthly retirement benefits due to the death of the member. In the event all the annuities provided for in this Section, payable on account of the death of a member, terminate before there has been paid an aggregate amount equal to his accumulated contributions standing to his credit in the member's deposit account at the time of his death, the difference between such accumulated contributions and such aggregate amount of annuity payments shall be paid to such person as he shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person surviving a termination, such difference shall be paid to the member's estate.

(b) Provided, that the surviving spouse of a member who has served at least ten (10) calendar years in the Arkansas General Assembly shall be entitled to a benefit not less than 75% of the benefit the member was receiving or would have been entitled to receive had he been of retirement age. Such spouse shall begin to receive the survivor benefits herein provided at age sixty (60) if the member had at least ten (10) actual years of General Assembly service; age fifty-five (55) if the member had at least fourteen (14) actual years of General Assembly service; and at age fifty (50) if the member had at least eighteen (18) actual years of General Assembly service. These benefits shall be paid for the lifetime of the surviving spouse. If upon the death of a member of the General Assembly, the surviving spouse is also eligible for the benefits provided in Subsection 5.11(a) of this section, then the benefits provided by this paragraph shall be the only benefit payable to

the survivors of such member or former member. The provisions of this paragraph shall apply to active, deferred and retired General Assembly members.

(c) All annuities payable under the provisions of this Section shall be effective the first day of the calendar month next following the month in which the survivor becomes eligible for benefits as provided by law."

SECTION 4. All laws and parts of laws in conflict with this Act are hereby repealed.

