RBH No. 10172

An Act

ENROLLED HOUSE
BILL NO. 3128

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

and

Barrington of the Senate

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

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

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

Section 916.1 A. Upon the death of a retired member, the Oklahoma Public Employees Retirement System shall pay to the beneficiary of the member or if there is no beneficiary or if the beneficiary predeceases the member, to the estate of the member, the sum of Four Thousand Dollars ($4,000.00) as a death benefit for those retired members who died prior to July 1, 1999. For those retired members who died on or after July 1, 1999, the sum shall be Five Thousand Dollars ($5,000.00). The benefit payable pursuant to this subsection shall be deemed, for purposes of federal income taxation, as life insurance proceeds and not as a death benefit if the Internal Revenue Service approves this provision pursuant to a private letter ruling request which shall be submitted by the board of trustees of the System for that purpose.

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

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

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

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

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

(2) a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,

(3) a statement that the value of the deceased member's entire estate is subject to probate, and that the estate wherever located, less liens and encumbrances, does not exceed Ten Thousand Dollars ($10,000.00), including the payment of benefits or unpaid contributions from the System as authorized by this subsection,

(4) a description of the personal property claimed (i.e., death benefit or unpaid contributions or both), together with a statement that such personal property is subject to probate, and

(5) a statement by each individual claiming heir identifying the amount of personal property that

the heir is claiming from the System, and that the heir has been notified of, is aware of and consents to the identified claims of all the other claiming heirs of the deceased member pending with the System,

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

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

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

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

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

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

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

Passed the House of Representatives the 4th day of March, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 6th day of April, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 7th **day of** April, 2010, **at** 3:52 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 12th **day of** April, 2010, **at** 6:49 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 13th **day of** April, 2010, **at** 7:17 **o'clock** P. **M.**

By: M. Susan Savage