

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2461 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Dick Lowe

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2461

By: Lowe (Dick)

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; enacting the Andy Davis Memorial Pension Benefits Act of 2021; amending 11 O.S. 2011, Sections 49-113.2, as last amended by Section 2, Chapter 346, O.S.L. 2019 and 50-115.2, as amended by Section 4, Chapter 44, O.S.L. 2014 (11 O.S. Supp. 2020, Sections 49-113.2 and 50-115.2), which relate to death benefits; amending 47 O.S. 2011, Section 2-306.3, as amended by Section 3, Chapter 37, O.S.L. 2014 (47 O.S. Supp. 2020, Section 2-306.3), which relates to death benefits; providing for an adjustment to death benefits for certain employees; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Andy Davis Memorial Pension Benefits Act of 2021."

1 SECTION 2. AMENDATORY 11 O.S. 2011, Section 49-113.2, as
2 last amended by Section 2, Chapter 346, O.S.L. 2019 (11 O.S. Supp.
3 2020, Section 49-113.2), is amended to read as follows:

4 Section 49-113.2 A. Upon the death of an active or retired
5 member, the System shall pay to the surviving spouse of the member
6 if the surviving spouse has been married to the firefighter for
7 thirty (30) continuous months preceding the member's death provided
8 a surviving spouse of a member who died while in, or as a
9 consequence of, the performance of the member's duty for a
10 participating municipality shall not be subject to the marriage
11 limitation for survivor benefits, or if there is no surviving spouse
12 or no surviving spouse meeting the requirements of this section, the
13 System shall pay to the designated recipient or recipients of the
14 member, or if there is no designated recipient or if the designated
15 recipient predeceases the member, to the estate of the member, the
16 sum of Four Thousand Dollars (\$4,000.00) for those active or retired
17 members who died prior to July 1, 1999. For those active or retired
18 members who die on or after July 1, 1999, and prior to July 1, 2021,
19 the sum shall be Five Thousand Dollars (\$5,000.00). For those
20 active or retired members who die on or after July 1, 2021, the sum
21 shall be Fifteen Thousand Dollars (\$15,000.00).

22 B. Upon the death of a member who dies leaving no living
23 designated recipient or having designated the member's estate as
24 recipient, the System may pay any applicable death benefit described

1 in subsection A of this section which may be subject to probate, ~~in~~
2 ~~an amount of Five Thousand Dollars (\$5,000.00),~~ to the heir or heirs
3 of the member without the intervention of a probate court or probate
4 procedures.

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

- 9 1. The member's last will and testament if available;
- 10 2. An affidavit or affidavits of heirship which must contain:
 - 11 a. the names and signatures of all claiming heirs to the
12 deceased member's estate including the claiming heirs'
13 names, relationship to the deceased member, current
14 addresses and current telephone numbers,
 - 15 b. a statement or statements by the claiming heirs that
16 no application or petition for the appointment of a
17 personal representative is pending or has been granted
18 in any jurisdiction,
 - 19 c. a statement that the value of the deceased member's
20 entire probate estate, less liens and encumbrances,
21 does not exceed the dollar limit pursuant to Section
22 393 of Title 58 of the Oklahoma Statutes, including
23 the payment of benefits from the System, and

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1 d. a statement by each individual claiming heir
2 identifying the amount of personal property that the
3 heir is claiming from the System or the amount the
4 heir agrees to be paid to another person, and that the
5 heir has been notified of, is aware of and consents to
6 the identified claims of all the other claiming heirs
7 of the deceased member pending with the System;

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

13 4. A corroborating affidavit from an individual other than a
14 claiming heir, who was familiar with the affairs of the deceased
15 member; and

16 5. Proof that funeral and burial expenses of the deceased
17 member have been paid or provided for.

18 D. The System shall retain complete discretion in determining
19 which requests for probate waiver may be granted or denied, for any
20 reason. Should the System have any questions as to the validity of
21 any document presented by the claiming heirs, or as to any statement
22 or assertion contained therein, the probate requirements provided
23 for in Section 1 et seq. of Title 58 of the Oklahoma Statutes shall
24 not be waived.

1 E. After paying any death benefits to any claiming heirs as
2 provided pursuant to this section, the System is discharged and
3 released from any and all liability, obligation and costs to the
4 same extent as if the System had paid a personal representative
5 holding valid letters testamentary issued by a court of competent
6 jurisdiction. The System is not required to inquire into the truth
7 of any matter specified in this section or into the payment of any
8 estate tax liability.

9 F. The provisions of this section shall not be subject to
10 qualified domestic orders as provided in subsection B of Section 49-
11 126 of this title.

12 G. 1. For purposes of this section, if a person makes a
13 qualified disclaimer with respect to the death benefit provided for
14 in subsection A of this section, this section shall apply with
15 respect to such death benefit as if the death benefit had never been
16 transferred to such person.

17 2. For purposes of this subsection, the term "qualified
18 disclaimer" means an irrevocable and unqualified refusal by a
19 person, including but not limited to the surviving spouse of the
20 deceased member, to accept an interest in the death benefit provided
21 for in subsection A of this section, but only if:

22 a. such refusal is in writing,
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- 1 b. such writing is received by the System not later than
2 the date which is nine (9) months after the date of
3 death of the deceased member,
4 c. such person has not accepted the death benefit
5 provided for in subsection A of this section, and
6 d. as a result of such refusal, the death benefit
7 provided for in subsection A of this section passes
8 without any direction on the part of the person making
9 the disclaimer and passes first, to the organization
10 providing funeral and burial services for the deceased
11 member or, if the cost of the funeral and burial
12 services for the deceased member has already been
13 paid, to the person or persons other than the person
14 making the disclaimer as further provided for in this
15 section.

16 SECTION 3. AMENDATORY 11 O.S. 2011, Section 50-115.2, as
17 amended by Section 4, Chapter 44, O.S.L. 2014 (11 O.S. Supp. 2020,
18 Section 50-115.2), is amended to read as follows:

19 Section 50-115.2 Upon the death of an active or retired member,
20 the Oklahoma Police Pension and Retirement System shall pay to the
21 beneficiary of the member or if there is no beneficiary or if the
22 beneficiary predeceases the member, to the estate of the member, the
23 sum of Four Thousand Dollars (\$4,000.00) as a death benefit for
24 those active or retired members who died prior to July 1, 1999. For

1 those active or retired members who die on or after July 1, 1999,
2 but prior to July 1, 2021, the sum shall be Five Thousand Dollars
3 (\$5,000.00). For those active or retired members who die on or
4 after July 1, 2021, the sum shall be Fifteen Thousand Dollars
5 (\$15,000.00).

6 SECTION 4. AMENDATORY 47 O.S. 2011, Section 2-306.3, as
7 amended by Section 3, Chapter 37, O.S.L. 2014 (47 O.S. Supp. 2020,
8 Section 2-306.3), is amended to read as follows:

9 Section 2-306.3 Upon the death of an active or retired member,
10 the Oklahoma Law Enforcement Retirement System shall pay to the
11 designated beneficiary of the member as defined in paragraph 17 of
12 Section 2-300 of this title or if there is no such designated
13 beneficiary or if such designated beneficiary predeceases the
14 member, to the estate of the member, the sum of Four Thousand
15 Dollars (\$4,000.00) as a death benefit for those active or retired
16 members who died prior to July 1, 1999. For those active or retired
17 members who die on or after July 1, 1999, but prior to July 1, 2021,
18 the sum shall be Five Thousand Dollars (\$5,000.00). For those
19 active or retired members who die on or after July 1, 2021, the sum
20 shall be Fifteen Thousand Dollars (\$15,000.00).

21 SECTION 5. This act shall become effective November 1, 2021.

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23 58-1-7584 MAH 02/18/21

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