

24-11-820. Benefits — Death of active or retired member other than while employed outside department.

(a) (1) Whenever any member of a fire department of any city, town, or fire improvement district covered by this act shall have lost his or her life, except while actually performing work in gainful employment outside the fire department, or any retired member shall die, leaving a spouse or children under nineteen (19) years of age, then, upon satisfactory proof of those facts made to it, the board of trustees shall order and direct, in the case of volunteer or part-paid firefighters, that a monthly pension equal to the amount of the pension or retirement pay attached to the rank of the member of the fire department at the time of his or her death shall be paid for life to the spouse. The monthly pension shall not be less than one hundred dollars (\$100).

(2) In the case of full-paid firefighters' classifications, a monthly pension shall be paid for life to the spouse in the amount of the pension received by the retired firefighter at the time of his or her death, or the amount of the pension to which the member would have been entitled on the day he or she died had he or she been retired, but in no event shall the benefit of the spouse be less than three hundred fifty dollars (\$350) per month, regardless of whether:

(A) The spouse has already been receiving pension payments; and

(B) The firefighter was on active duty or retired.

(b) (1) (A) In addition to the monthly pension provided in subsection (a) of this section, the board of trustees may order and direct the payment of, in the case of volunteer or part-paid firefighters, the sum of twenty-five dollars (\$25.00) per month for each child under nineteen (19) years of age who has not completed high school and, in the case of full-paid firefighters, the sum of one hundred twenty-five dollars (\$125) per month for each child under nineteen (19) years of age who has not completed high school.

(B) However, if the child enrolls in an institution of higher education after completing high school, the payments shall continue as long as the child is a full-time student, but in no instance beyond the child's twenty-third birthday.

(2) (A) If there is no eligible spouse at the time of the member's death, then the total sums shall be paid to his or her children until they shall have reached nineteen (19) years of age or until the children have completed high school, whichever occurs first.

(B) However, if a child enrolls in an institution of higher education after completing high school, the payments shall continue as long as the child is a full-time student, but in no instance beyond the child's twenty-third birthday.

(3) (A) The sum total of the pension to be paid the spouse or the qualifying child or children of volunteer or part-paid firefighters shall not exceed one-half ($\frac{1}{2}$) of the salary attached to the rank the member held at the time of his or her death as an active member of a volunteer or part-paid fire department, nor shall it be less than one hundred dollars (\$100) per month.

(B) However, the limit on the sum total amount under subdivision (b)(3)(A) of this section may be exceeded through the benefit increases authorized under § 24-11-102.

(4) (A) ~~If a spouse or child shall marry, he or she shall thereafter receive no further pension under this subchapter.~~ However, if he or she is a surviving spouse of a firefighter who is killed while in the official performance of his or her duties, then that surviving spouse's benefits may be restored to the spouse whose benefits had been terminated before or after August 1, 1997, upon his or her application to and approval by the board of trustees.

(B) The benefit restored under subdivision (b)(4)(A) of this section may include retroactive benefit increases to the last amount received by the surviving spouse upon approval of the board of trustees after obtaining results of an actuarial study to determine its effect on the fund. The benefit restoration shall not include any retroactive lump-sum payment.

(5) If any retired firefighter shall marry after his or her retirement, the surviving spouse may be entitled to a pension under this subchapter if:

(A) He or she has been married to the firefighter for a period of at least five (5) years;

(B) The board of trustees for the fund decides to extend this benefit for its members; and

(C) The pension fund will be actuarially sound as determined by the actuary for the Arkansas Fire and Police Pension Review Board after this benefit increase is extended to members.

(c) (1) In computing service required under this section for eligibility to participate in benefits, service shall be computed from the day the person from whom benefits are derived was duly appointed and enrolled in some fire department in the State of Arkansas as a firefighter, and the service shall be considered in determining eligibility for benefits regardless of whether it was performed before or after the passage of §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810 [repealed], 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821.

(2) It is the intention of this act that all spouses and dependent children of full-paid, part-paid, and volunteer firefighters shall receive at least the minimum benefits prescribed in this section, regardless of whether the service upon which the spouses or dependent children derived the benefit was performed before or after the passage of §§ 24-11-801 — 24-11-807, 24-11-809, 24-11-810 [repealed], 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821.

(d) Any payment of benefits above the minimum amounts stated in this section shall not be made except upon determination that the fund will remain actuarially sound.

(e) (1) It is the intention of this section to make eligible for benefits the spouses and dependent children of members who died from illness after leaving active service or who died after being retired for a duty-related injury, as described in this section, regardless if the service, retirement, or death occurred before or after the passage of this section.

(2) However, payment to survivors made eligible by this section shall not be made retroactively but shall begin with the passage of this section.

(f) (1) If a retirant and, if any, his or her eligible beneficiary both die before they have received in annuity payments a total amount equal to the accumulated contributions, including any interest credits,

standing to the retirant's credit in the system at the time of his or her retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to such person or persons as the retirant shall have nominated by written designation duly executed and filed with the board.

(2) If no designated person survives the retirant and his or her beneficiary, the difference shall be paid to the estate of the survivor of the retirant and his or her beneficiary.

History. Acts 1921, No. 491, § 8; Pope's Dig., § 7744; Acts 1943, No. 167, § 3; 1953, No. 68, § 2; 1955, No. 77, § 2; 1957, No. 94, § 1; 1969, No. 69, § 1; 1981, No. 253, § 1; 1983, No. 48, § 1; 1983, No. 397, §§ 1, 3; 1985, No. 145, §§ 1, 2; A.S.A. 1947, §§ 19-2208, 19-2208n, 19-2208.1; Acts 1989, No. 821, § 9; 1993, No. 1197, § 4; 1997, No. 536, § 1; 2003, No. 674, § 2; 2003, No. 1278, § 1; 2005, No. 1921, § 1; 2007, No. 614, § 1.