

95.860 Death of member due to occupational causes -- Benefits to surviving widow, minor children, parents -- Reduction of survivor benefits -- Cost-of-living increases.

- (1) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary or annuity, as the case may be, to an annuity equal to fifty percent (50%) of the member's last rate of salary plus the total increase the retired member may have received in his annuity pursuant to KRS 95.859(3). This annuity shall be payable until she dies or remarries. No surviving widow shall receive an annuity of less than one hundred fifty dollars (\$150) per month. The board may increase the minimum benefit to no more than five hundred dollars (\$500) per month if the increase can be supported on an actuarially sound basis by the fund. When Social Security benefits are increased, the minimum shall be increased by a like percentage, provided the increase shall not exceed five percent (5%). In addition, if minor children under age eighteen (18) survive the member, the widow shall receive twenty-five percent (25%) of the member's last rate of salary until the last child attains age eighteen (18). The combined payments to a widow and minor children, excluding cost-of-living increases or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3), shall not exceed seventy-five percent (75%) of his final rate of salary.
- (2) If a widow does not survive the member, or if she remarries, and minor children under age eighteen (18) exist, the children shall be entitled to the benefits provided in KRS 95.861(3).
- (3) If neither a widow nor minor children eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.
- (4) If a widow would receive from a combination of:
 - (a) Survivor benefits pursuant to this section, excluding benefits for minor children or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3); and
 - (b) Workers' compensation benefits, excluding dependent children's allowances or payments for medical expenses or legal fees related to the workers' compensation claim, an amount greater than one hundred percent (100%) of the deceased member's last rate of salary,

then the pension system survivor benefits shall be reduced to the point that the combined payments equal one hundred percent (100%) of the last rate of salary. The survivor benefit shall not be reduced, however, below an amount equal to two and one-half percent (2.5%) of average salary for each year of the deceased member's service. Any reduction in the survivor payment shall be based upon workers' compensation benefits applicable at the time the survivor payment is granted, and not upon subsequent increases in either benefit. If workers' compensation benefits are reduced at a subsequent time, the surviving spouse shall inform the board, and the board shall increase the survivor's benefit by the amount of the reductions, but not by more than an amount which would increase the survivor's benefit to fifty

percent (50%) of last rate of salary, excluding cost-of-living increases or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3). The board of trustees may pay estimated benefits to a surviving spouse, upon qualification for the benefits, based upon an estimate of workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the spouse's actual benefits shall be determined and the account corrected retroactive to the effective date of the survivor benefit. If workers' compensation benefits are paid in lump sums, the board shall reduce the survivor benefit on a monthly rather than a lump-sum basis. The amount of the monthly reduction shall be based upon the life expectancy of the survivor. The board may request the assistance of the general manager of Kentucky Retirement Systems to calculate the reduction in survivor benefits when lump-sum payments are involved, and the general manager shall provide such assistance upon request.

- (5) A surviving child or parent receiving benefits pursuant to this section shall receive the same cost-of-living increase granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section or whose pension increase pursuant to the Social Security increase is less than the cost-of-living increase in KRS 95.859(3) shall receive the same increase an annuitant receives pursuant to KRS 95.859(3), not to exceed a total of five percent (5%).

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 341, sec. 2, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 124, sec. 2, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 50, sec. 2, effective July 15, 1994; and ch. 231, sec. 1, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 84, sec. 3, effective March 24, 1992; and ch. 294, sec. 2, effective April 9, 1992. -- Amended 1984 Ky. Acts ch. 351, sec. 2, effective July 13, 1984. -- Amended 1980 Ky. Acts ch. 367, sec. 1, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 396, sec. 3. -- Created 1956 Ky. Acts ch. 16, sec. 10, effective July 1, 1956.

Legislative Research Commission Note (7/14/92). This section was amended by two 1992 Acts. Where those Acts are not in conflict, they have been compiled together. Where a conflict exists, the Act which was last enacted by the General Assembly prevails, pursuant to KRS 446.250.