

95.861 Death of member not occasioned by performance of duty -- Benefits to surviving widow and minor children -- Cost-of-living increases.

- (1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least three (3) years of total service, his widow shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, plus the total increase the retired member may have received in his retirement annuity pursuant to KRS 95.859(3), subject to a maximum payment, excluding cost-of-living increases of the member or the widow, to the widow of fifty percent (50%). If the member has had at least ten (10) years of total service, the widow shall receive an annuity of no less than one hundred fifty dollars (\$150) per month. The board may increase the minimum benefit to not 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, but the increase shall not exceed five percent (5%). Payment of the annuity shall be subject to the following conditions:
 - (a) The widow had been married to the member at least one (1) year prior to his death;
 - (b) The widow is at least forty-five (45) years of age, otherwise payment will be deferred until she attains such age, except that if she is or becomes totally disabled before age forty-five (45), or has a minor child or children by the member in her care under age eighteen (18) (including adopted children provided the proceedings for adoption were initiated at least one (1) year prior to death of member), payment of the widow's annuity will begin immediately together with an additional allowance on account of the child or children; and
 - (c) The widow's annuity will terminate in any event when the widow remarries. The annuity of each child or children shall continue until each child attains age eighteen (18).
- (2) If the widow has minor children under age of eighteen (18), the annuity to the widow shall be increased one-half (1/2) on account of the first child and one-fourth (1/4) on account of each additional child, subject to a maximum combined payment, excluding cost-of-living increases or increases the retired member may have received in his annuity pursuant to KRS 95.859(3), to the widow and children of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13).
- (3) If the pensioner is not survived by a widow and there are minor children, the following benefits shall be paid:
 - (a) One (1) minor child, fifty percent (50%) of the average salary plus the total increase the retired member may have received in his annuity pursuant to KRS 95.859(3);
 - (b) Two (2) minor children, fifteen percent (15%) of the average salary additional; or
 - (c) Three (3) or more minor children, ten percent (10%) of the average salary additional,

subject to a maximum combined payment, excluding cost-of-living increases of the member or the minor children, of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13). The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly employed in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order.

- (4) These benefits shall also be payable upon death of the member while on retirement, provided marriage was in effect for at least one (1) year before death.
- (5) A surviving child receiving benefits pursuant to this section shall receive the same cost-of-living increases 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. 3, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 124, sec. 3, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 50, sec. 3, effective July 15, 1994; and ch. 231, sec. 2, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 84, sec. 4, effective March 24, 1992; and ch. 294, sec. 3, effective April 9, 1992. -- Amended 1984 Ky. Acts ch. 351, sec. 3, effective July 13, 1984. -- Amended 1980 Ky. Acts ch. 367, sec. 2, effective July 15, 1980. -- Amended 1976 Ky. Acts ch. 175, sec. 1. -- Amended 1974 Ky. Acts ch. 396, sec. 4. -- Created 1956 Ky. Acts ch. 16, sec. 11, effective July 1, 1956.