

§ 120-4.26. Benefit payment options.

(a) Any member may elect to receive benefits in a retirement allowance payable throughout life, or the member may elect to receive the actuarial equivalent of the retirement allowance in a reduced allowance payable throughout life under the provisions of one of the options set forth in this section. No election may be made after the first payment becomes normally due and the first payment date has occurred, nor may an election be revoked or a nomination changed, except as provided for by this section.

(b) If a member dies after the effective date of retirement for which the member has been approved, then one of the following shall apply:

- (1) If the Board of Trustees has received an election of benefits under this section that is properly filed and acknowledged by the member and the member dies before the date when the first payment on account of any benefit normally becomes due and the first benefit payment has occurred, then the retirement benefit shall be payable as provided for by the member's election of benefits.
- (2) If the member dies prior to the receipt by the Board of Trustees of an election of benefits under this section that is properly filed and acknowledged by the member, then one of the following shall apply:
 - a. If the member has no designated beneficiary for a return of accumulated contributions, then the administrator or executor of the member's estate shall elect an option under this section and name the beneficiary or beneficiaries.
 - b. If the member has only one designated beneficiary for a return of accumulated contributions, then that beneficiary may elect to receive the benefit.
 - c. If the member has more than one designated beneficiary for a return of accumulated contributions, then the administrator or executor of the member's estate shall elect an option under this section and name the beneficiary or beneficiaries.

(c) The election of Option 2 or Option 3 or the nomination of the person under either of those options shall be revoked if the person nominated dies prior to the date the first payment becomes normally due and the first payment date has occurred. The election may be revoked by the member prior to the date the first payment becomes normally due and the first payment date has occurred.

(d) If a member has elected Option 2 or Option 3 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first payment date has occurred and the member remarries, then, within 90 days of the remarriage, the member may nominate a new spouse to receive the retirement allowance under the previously elected option. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination.

(e) Any member having elected Options 2 or 3 and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from that spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent to the retirement allowance in effect immediately prior to the effective date of the new option.

(f) The benefit payment options under this section are as follows:

- (1) Option 1. – For Members Retiring Prior to July 1, 1993. – If a member dies within 10 years from the member's retirement date, an amount equal to the member's accumulated contributions at retirement, less one-one hundred

twentieth (1/120) for each month for which the member has received a retirement allowance payment, shall be paid to the member's legal representative or to the person the member nominates by written designation acknowledged and filed with the Board of Trustees.

- (2) Option 2. – Upon a member's death, the member's reduced retirement allowance shall be continued throughout the life of and paid to the person the member nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of the member's retirement. If the person selected is other than the member's spouse, then the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to the member.
- (3) Option 3. – Upon a member's death, one half of the member's reduced retirement allowance shall be continued throughout the life of and paid to the person the member nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of the member's retirement. (1983, c. 761, s. 238; 1985, c. 649, s. 9; 1993, c. 321, s. 74.1(a); 1998-212, s. 28.26(a); 2023-105, s. 5.3; 2024-8, s. 4(a).)