

ENGROSSED SENATE
BILL NO. 851

BY: STIPE of the SENATE

and

ROBERTS (Walt) of the HOUSE

[CITIES AND TOWNS - MOTOR VEHICLES - OFFICERS - SCHOOLS
- STATE GOVERNMENT - AMENDING 11 O.S. 1991, SECTIONS
23-102, 49-106 AND 50-114, 47 O.S. 1991, SECTION 2-305,
51 O.S. 1991, SECTIONS 24.1 AND 162, 70 O.S. 1991,
SECTION 17-116.2 AND 74 O.S. 1991, SECTION 915 -
EMERGENCY]

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 23-102, is amended to read as follows:

Section 23-102. If a municipality is to defend a municipal employee in a civil action or special proceeding as provided for in Section 23-101 of this title, the following procedure shall apply:

1. The employee shall make a written request to the governing body of the municipality within ten (10) days after service of summons on the employee. A copy of the request shall be transmitted by the employee to his immediate supervisor and to the municipal attorney or other designated legal counsel;

2. Before any defense is initiated, an inquiry shall be made by the municipal governing body of the facts upon which the action or special proceeding is based. Unless the governing body determines that the employee was acting in good faith and in the course of his

employment, representation shall not be provided pursuant to the provisions of Section 23-101 of this title;

3. Upon the decision of the municipal governing body to provide representation for the employee, it shall direct an attorney to appear and defend the action. Said attorney shall determine the method of preparation and presentation of the defense and shall not be held civilly liable for the exercise of such discretion;

4. The employee named in the action may employ private counsel at his own expense to assist in his defense;

5. It shall be the duty of any municipal law enforcement agency to provide investigators at the request of the designated attorney to assist him in implementing the provisions of this section;

6. No findings or reports of the municipal governing body, the designated attorney, or persons making inquiry subject to their direction pursuant to the provisions of this section shall be discoverable or admissible as evidence in any such action or special proceeding, and no reference thereto shall be made in any such trial or hearing; ~~and~~

7. Any officer or employee who acts outside the scope of his official authority shall be liable for damages in the same manner as any private citizen; and

8. In the event a judgment is entered against an officer or employee, the City Council or governing body shall have the authority to determine whether the municipal employee was within the scope of his employment.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 49-106, is amended to read as follows:

Section 49-106. A. Any fire fighter who reaches the fire fighter's normal retirement date shall be entitled, upon written request, to retire from such service and be paid from the System a monthly pension equal to the member's accrued retirement benefit; provided, that the pension shall cease during any period of time the

member may thereafter serve for compensation in any municipal fire department in the state.

B. The monthly service pension of a member with more than twenty (20) years credited service shall be increased two percent (2%) per year for each year a member delays his or her date of retirement beyond said member's normal retirement date for a continuous period not to exceed ten (10) years. The provisions of this subsection shall not be available to a member who receives a disability benefit from the State Board, who retires as a volunteer fire fighter or who elects to participate in the Oklahoma Firefighters Deferred Option Plan. A member shall not receive an increase in his or her monthly service pension as provided in this subsection for those years of service credited after said member has received twenty (20) years credited service and prior to the effective date of this act.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 50-114, is amended to read as follows:

Section 50-114. A. The State Board is hereby authorized to pay out of funds in the System a monthly service pension to any member eligible as hereinafter provided, not exceeding in any event the amount of money in such funds and not exceeding in any event the accrued retirement benefit for such member, except as provided for herein. In order for a member to be eligible for such service pension the following requirements must be complied with:

1. The member's service with the police department for any participating municipality must have ceased;

2. The member must have reached the member's normal retirement date; and

3. The member must have complied with any agreement as to contributions by the member and other members to any funds of the System where said agreement has been made as provided by this article; provided, that should a retired member receive disability

benefits as provided in this and other sections of this article, the time the retired member is receiving said disability benefits shall count as time on active service if the retired member should be recalled by the Chief of Police from said disability retirement. It shall be necessary before said time shall be counted toward retirement that the retired member make the same contribution as the member would have otherwise made if on active service for the time the retired member was disabled.

B. Any member complying with all requirements of this article, who reaches normal retirement date, upon application, shall be retired at the accrued retirement benefit. When a member has served for the necessary number of years and is otherwise eligible, as provided in this article, if such member is discharged without cause by the participating municipality, the member shall be eligible for a pension.

C. The monthly service pension of a member with more than twenty (20) years credited service shall be increased two percent (2%) per year for each year a member delays his or her date of retirement beyond said member's normal retirement date for a continuous period not to exceed ten (10) years. The provisions of this subsection shall not be available to a member who receives a disability benefit from the State Board, or who elects to participate in the Oklahoma Police Option Plan. A member shall not receive an increase in his or her monthly service pension as provided in this subsection for those years of service credited after said member has received twenty (20) years credited service and prior to the effective date of this act.

D. When a member reaches the age of seventy (70) years, the member must retire, unless, at the request of the Chief of Police of the municipality, the State Board or municipal governing body grants such member an extension of one (1) year, which can be further extended for one-year periods, only at the request of the Chief of

Police. Any member who shall be retired by reason of having reached said maximum age, and who is otherwise eligible, may be entitled to receive compensation as provided in this article regardless of the number of years of the member's service, provided that upon reaching the maximum age the member shall have been continuously a member of the System for not less than three (3) years immediately prior to the date of retirement.

~~D.~~ E. In no event shall commencement of distribution of the accrued retirement benefit of a member be delayed beyond April 1 of the calendar year following the later of:

1. the calendar year in which the member reaches seventy and one-half (70 1/2) years of age; or
2. the normal retirement date of the member.

~~E.~~ F. In the event of the death of any member who has been awarded a retirement benefit or is eligible therefor as provided in this section, such member's beneficiaries shall be paid such retirement benefit. The remaining portion of the member's retirement benefit shall be distributed to the beneficiaries at least as rapidly as under the method of distribution to the member.

~~F.~~ G. A local board and the State Board may review and affirm a member's request for retirement benefits prior to the member's normal retirement date provided that no retirement benefits are paid prior to the normal retirement date.

~~G.~~ H. A member retired under the provisions of this article may apply to the State Board to have the member's retirement benefits set aside and may make application for disability benefits. Upon approval of the disability benefits, the member would become subject to all provisions of this article pertaining to disability retirement.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 2-305, is amended to read as follows:

Section 2-305. A. Except as otherwise provided in this title, at any time after attaining normal retirement date, any member of the System upon application therefor made and approved may retire and, during the remainder of the member's lifetime, receive annual retirement pay, payable in equal monthly payments, equal to two and one-half percent (2 1/2%) of the final average salary times years of credited service. No member shall be required to retire for length of service unless and until the member shall have reached the age of sixty (60) years, but any member of the System who shall have reached the age of sixty (60) years and who shall also have completed twenty (20) years or more of credited service shall be retired by the Board unless, after application to the Board and such examination and showing as the Board may deem proper, the Board shall determine that such member of the System is physically and mentally able to continue to perform duties or service as required of a member. Unless such application be made by a member of the System within thirty (30) days after reaching the age of sixty (60) years and completing twenty (20) years or more of credited service or if, after such application and examination, the Board shall determine that such member of the System is not physically or mentally able to continue to perform services as required of the employer, the Board shall by resolution order his retirement with retirement pay for length of service as provided herein.

B. The annual retirement pay of a member with more than twenty (20) years credited service shall be increased two percent (2%) per year for each year a member delays his or her date of retirement beyond said member's normal retirement date for a continuous period not to exceed ten (10) years. The provisions of this subsection shall not be available to a member who receives a disability benefit from the Board, or who elects to participate in the Oklahoma Law Enforcement Deferred Option Plan. A member shall not receive an increase in his or her monthly service pension as provided in this

subsection for those years of service credited after said member has received twenty (20) years credited service and prior to the effective date of this act.

C. A member who meets the definition of disability as defined in Section 2-300 of this title and whose disability occurred prior to the member's normal retirement date and by direct reason of the performance of the member's duties as an officer shall receive a monthly benefit equal to the greater of fifty percent (50%) of final average salary or two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of the member's credited service.

~~C.~~ D. A member who meets the definition of disability as defined in Section 2-300 of this title and whose disability occurred prior to the member's normal retirement date but after completing three (3) years of vesting service and not by reason of the performance of the member's duties as an officer or as a result of the member's willful negligence shall receive a monthly benefit equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of the member's credited service. For the purpose of determining the member's disability under the System, the member shall be required by the Board to be examined by two recognized physicians selected by the Board to determine the extent of his injury or illness. The examining physicians shall furnish the Board a detailed written report of the injury or illness of the examined member establishing the extent of disability and the possibilities of the disabled member being returned to his regular duties or an alternate occupation or service covered by the System after a normal recuperating period.

~~D.~~ E. Payment of a disability pension shall commence as of the first day of the month coinciding or next following the date of retirement and shall continue as long as the member meets the

definition of total and permanent disability provided in this section.

~~E.~~ F. The Board shall require all retired disabled members who have not attained their normal retirement date to submit to a physical examination once each year for the three (3) years following retirement. The Board shall select two physicians to examine the retired members and pay for their services from the fund. Any retired disabled member found no longer disabled by the examining physicians to perform the occupation of the member or an alternate occupation or service covered by the System shall be required to return to duty and complete twenty (20) years of service as provided in subsection A of this section, or forfeit all his rights and claims under ~~this act~~ Section 2-305 et seq. of this title.

SECTION 5. AMENDATORY 51 O.S. 1991, Section 24.1, is amended to read as follows:

Section 24.1 A. Any elected or appointed state or county officer or employee who, during the term for which he was elected or appointed, is, or has been, found guilty by a trial court of a felony in a state or federal court of competent jurisdiction shall be automatically suspended from said office or employment. The Governor shall appoint an interim successor to serve during the period of suspension of any county commissioner or any state officer other than a member of the State Legislature. A vacancy created by the suspension of a member of the State Legislature shall be filled as provided in Section 20 of Article V of the Oklahoma Constitution. A vacancy created by the suspension of a county officer other than a county commissioner shall be filled as provided by Section 10 of this title. In the event any elected or appointed state or county officer or employee who, during the term for which he was elected or appointed, pleads guilty or nolo contendere to a felony or any offense involving a violation of his official oath in a state or

federal court of competent jurisdiction, he shall, immediately upon the entry of said plea, forfeit said office or employment. Any such officer or employee upon final conviction of, or pleading guilty or nolo contendere to, a felony in a state or federal court of competent jurisdiction shall vacate such office or employment and if such felony or other offense ~~violates his oath of office~~ involves his status or activities as a public official or public employee shall forfeit all benefits of said office or employment, including, but not limited to, retirement benefits provided by law; provided however, that such forfeiture of retirement benefits shall not include such officer's or employee's contributions to the retirement system or retirement benefits that are vested on the effective date of this act. Any claims for payment of salary or wages, or any claims for payment of any other benefits forfeited pursuant to this section, to any such officer or employee suspended from or forfeiting his office or employment shall be rejected by the proper authority. Such suspension or forfeiture shall continue until such time as said conviction or guilty plea is reversed by the highest appellate court to which said officer or employee may appeal. The attorney responsible for prosecuting such elected or appointed state or county officers or employees shall notify the retirement system in which such officer or employee is enrolled of the forfeiture of such officer's or employee's retirement benefits.

B. Within three (3) days of the conviction or plea of guilty or nolo contendere of a county commissioner, the district attorney of the county where such county commissioner served shall notify the Governor, in writing, of the suspension, the date of conviction or plea of guilty or nolo contendere resulting in suspension, and the felony committed.

C. Within three (3) days of the conviction or plea of guilty or nolo contendere of an elected or appointed state officer, the attorney responsible for prosecuting such state officer, shall

notify the Governor in writing of the suspension, the date of conviction or plea of guilty or nolo contendere resulting in suspension, and the felony committed.

SECTION 6. AMENDATORY 51 O.S. 1991, Section 162, is amended to read as follows:

Section 162. A. The state or any political subdivision, subject to procedural requirements imposed by this section, other applicable statute, ordinance, resolution or written policy, shall:

1. Provide a defense for any employee as defined in Section 152 of this title when liability is sought for any violation of property rights or any rights, privileges or immunities secured by the Constitution or laws of the United States when alleged to have been committed by the employee while acting within the scope of employment; and

2. Pay or cause to be paid any judgment entered in the courts of the United States, the State of Oklahoma or any other state against any employee and/or political subdivision or settlement agreed to by the political subdivision entered against any employee, and any costs or fees, for a violation of property rights or any rights, privileges or immunities secured by the Constitution or laws of the United States which occurred while the employee was acting within the scope of employment. The maximum aggregate amount of indemnification paid directly from funds of the state or any political subdivision to or on behalf of any employee pursuant to this section shall not exceed the maximum figures authorized by the provisions of Section 154 of this title, regardless of the number of persons who suffer damage, injury or death as a result of the occurrence, unless, in the case of a political subdivision, the political subdivision establishes higher limits by ordinance, if a municipality, or, as to other political subdivisions, by resolution, published as required by law.

B. 1. The state shall not be required to indemnify any employee of the state under the provisions of this section, unless the employee is judicially determined to be entitled to such indemnification and a final judgment therefor is entered. The exclusive means of recovering indemnification from the state shall be by filing an application for indemnification in the district court of the county where venue is proper as provided for in paragraph 2 of this subsection. Actions to determine entitlement to indemnification shall be tried to the court, sitting without a jury.

2. Venue for actions to determine entitlement to indemnification shall be in Oklahoma County, except that a constitutional state agency, board or commission may, upon a resolution being filed with the Secretary of State, designate another situs for venue in lieu of Oklahoma County.

3. All applications for indemnification from the state shall be filed in the name of the real party or parties in interest, and in no event shall any application be presented nor recovery made under the right of subrogation. Indemnification as provided for in this subsection shall extend only to acts or omissions occurring on or after January 1, 1984. In every instance in which the act or omission upon which a civil rights judgment has been awarded occurs after July 1, 1986, the employee must file his application for indemnification within thirty (30) days of final judgment, or the right to seek indemnification shall be lost forever.

4. In order to recover indemnification from the state or political subdivision pursuant to this subsection, the court shall determine by a preponderance of the evidence that:

- a. the employee reasonably cooperated in good faith in the defense of the action upon which the judgment or settlement was awarded and for which indemnification is sought;

- b. the actions or omissions upon which such a judgment or settlement has been rendered were not the result of fraudulent conduct or corruption by the employee;
 - c. the employee, in committing the acts or omissions upon which such a judgment or settlement has been rendered was acting in good faith and within any applicable written administrative policies known to the employee at the time of the omissions or acts complained of;
 - d. the employee was acting within the scope of his employment at the time that the acts as determined by the City Council or governing body or omissions upon which a judgment or settlement has been rendered were committed by the employee; and
 - e. the acts or omissions of the employee upon which a judgment or settlement has been rendered were not motivated by invidious discriminatory animus directed toward race, sex or national origin.
5. a. Any indemnification judgment against the state under this section shall be an encumbrance against otherwise available unencumbered monies and unallocated unencumbered monies in the appropriations of the agency on whose behalf the employee to be indemnified was acting at the time of the act or omission upon which the judgment or settlement was awarded and for which indemnification was sought.
- b. If sufficient unencumbered monies or unallocated unencumbered monies do not exist in the agency's appropriations to pay the indemnification, the agency shall make application to the Risk Management Division of the Office of Public Affairs for full payment of the indemnification out of the Tort Claims

Liability Revolving Fund established pursuant to Section 85.35 of Title 74 of the Oklahoma Statutes. Payment out of this fund shall be authorized if there are sufficient monies greater than the sum total of the then pending fund indemnification judgment requests, and the reserves for future tort claims as certified by the Director of Risk Management.

- c. If sufficient monies do not exist in the Tort Claims Liability Revolving Fund, the agency shall request the Legislature to make an appropriation sufficient to pay the indemnification.

C. The state or political subdivision shall have the right to recover from an employee the amount expended by the state or political subdivision to provide a defense, or pay a settlement agreed to by the employee and the state or political subdivision, or pay the final judgment, if it is shown that the employee's conduct which gave rise to the action was fraudulent or corrupt or if the employee fails to reasonably cooperate in good faith in defense of the action.

D. The state or a political subdivision shall not, under any circumstances, be responsible to pay or indemnify any employee for any punitive or exemplary damages rendered against the employee, nor to pay for any defense, judgment, settlement, costs or fees which are paid or covered by any applicable policy or contract of insurance. Where any civil rights judgment upon which indemnification under subsection B of this section is applied for by an employee of the state includes an award for both actual and punitive or exemplary damages, the total amount of fees and costs for which indemnification may be allowed shall be limited to the percentage of fees and costs in the total award that the percentage of the award of actual damages bears to the total judgment awarded.

E. Nothing in this section shall be construed to waive any immunities available to the state under the terms of the Eleventh Amendment to the Constitution of the United States. Any immunity or other bar to a civil lawsuit under state or federal law shall remain in effect. The fact that the state or a political subdivision may relieve an employee from all judgments, settlements, costs or fees arising from the civil lawsuit shall not, under any circumstances, be communicated to any trier of fact in the case of any trial by jury.

SECTION 7. AMENDATORY 70 O.S. 1991, Section 17-116.2, is amended to read as follows:

Section 17-116.2 A. 1. Beginning July 1, 1987, a member who retires on or after the member's normal retirement age or whose retirement is because of disability shall receive an annual allowance for life, payable monthly, in an amount equal to two percent (2%) of the member's highest three-year average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service.

2. A classified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Eleven Thousand Five Hundred Dollars (\$11,500.00) or on his current minimum average salary plus Two Thousand Dollars (\$2,000.00), whichever is greater. Beginning July 1, 1990, a classified member who retired prior to July 1, 1989, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Nine Hundred Fifty Dollars (\$950.00). An unclassified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Nine Thousand Five Hundred Dollars (\$9,500.00) or on his current minimum average salary plus One Thousand Dollars (\$1,000.00), whichever is greater. Beginning July 1, 1990, an unclassified member who retired prior to July 1, 1989, shall have the member's

retirement allowance calculated on the member's current minimum average salary plus Four Hundred Seventy-five Dollars (\$475.00). No retirement benefit payments shall be made retroactively.

3. Except for those members retiring because of a disability, the retirement allowance shall be subject to adjustment for those members retiring before normal retirement age in accordance with the actuarial equivalent factors adopted by the Board of Trustees.

4. The annual allowance for life of a member who is age sixty-two (62) years or older and who has earned more than ten (10) years service shall be increased two percent (2%) per year for each year said member delays his or her date of retirement beyond said member's normal retirement age for a continuous period not to exceed ten (10) years. A member shall not receive an increase in his or her annual allowance for life as provided in this paragraph for those years of service credited after said member attains age sixty-two (62) years and prior to the effective date of this act.

B. Except as otherwise provided for in this subsection, the amount contributed by each member to the retirement system shall be:

1. Beginning July 1, 1988 through June 30, 1989, five percent (5%) of the regular annual compensation of such member not in excess of the maximum compensation level;

2. Beginning July 1, 1989 through June 30, 1990, five and one-half percent (5 1/2%) of the regular annual compensation of such member not in excess of the maximum compensation level; and

3. Beginning July 1, 1990, six percent (6%) of the regular annual compensation of such member not in excess of the maximum compensation level.

C. The maximum compensation level shall be

Twenty-five Thousand Dollars (\$25,000.00). An

active member of the System may elect to have a

maximum compensation level of Forty Thousand

Dollars (\$40,000.00). Such an election shall be

made in writing and filed with the System. Members whose salaries are in excess of Twenty-five Thousand Dollars (\$25,000.00) on the effective date of this act shall file the election with the System prior to January 1, 1988. Members whose salaries exceed Twenty-five Thousand Dollars (\$25,000.00) after the effective date of this act shall file the election when the salary exceeds Twenty-five Thousand Dollars (\$25,000.00). If a member makes such an election, the member shall contribute the amount specified in paragraphs 1 through 3 of subsection B of this section of the regular annual compensation of such member not in excess of Twenty-five Thousand Dollars (\$25,000.00) and:

1. Beginning July 1, 1988 through June 30, 1989, ten percent (10%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars (\$25,000.00) and is not in excess of Forty Thousand Dollars (\$40,000.00);

2. Beginning July 1, 1989 through June 30, 1990, ten and one-half percent (10 1/2%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars (\$25,000.00) and is not in excess of Forty Thousand Dollars (\$40,000.00); and

3. Beginning July 1, 1990, eleven percent (11%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars (\$25,000.00) and is not in excess of Forty Thousand Dollars (\$40,000.00). Except as provided in subsection D of this section, any such election shall be irrevocable.

D. 1. Any member, who at the time the member was eligible to make an election to increase the maximum compensation level of the member, failed to make an election or chose not to increase the

maximum compensation level of the member to Forty Thousand Dollars (\$40,000.00), may elect to increase the maximum compensation level of the member if the election is made within three (3) years of the member's initial opportunity to make the election. To make the change, the member shall complete a new form and file with the Board of Trustees, the form and a payment equaling the difference between the amount contributed at the twenty-five-thousand-dollar level and the appropriate contribution on compensation in excess of Twenty-five Thousand Dollars (\$25,000.00) up to a maximum of Forty Thousand Dollars (\$40,000.00). The required payment shall include any contribution required by the employing school district.

2. Any member, who at the time the member was eligible to make an election to increase the maximum compensation level of the member chose to increase the compensation level of the member to Forty Thousand Dollars (\$40,000.00), may elect to decrease the maximum compensation level of the member to Twenty-five Thousand Dollars (\$25,000.00) if the election is made within three (3) years of the initial election to increase the maximum compensation level. To make the change, the member shall complete a new form and file with the Board of Trustees the form and a request for a refund of contributions made by the member in excess of the contribution required on a maximum compensation level of Twenty-five Thousand Dollars (\$25,000.00).

3. Any changes made pursuant to this subsection shall be irrevocable.

E. 1. An individual who withdrew from the Teachers' Retirement System and whose salary was in excess of Seven Thousand Eight Hundred Dollars (\$7,800.00) and had elected to contribute only on Seven Thousand Eight Hundred Dollars (\$7,800.00) before his withdrawal shall contribute on the earning ceiling as provided for in this section on his reentry into membership in the Teachers' Retirement System.

2. An individual who elected to contribute on a maximum of Seven Thousand Eight Hundred Dollars (\$7,800.00) per annum shall, beginning July 1, 1979, contribute on his earning ceiling as provided for in this section.

3. Any member who elected to contribute on Seven Thousand Eight Hundred Dollars (\$7,800.00) prior to January 1, 1978, and whose salary was more than Seven Thousand Eight Hundred Dollars (\$7,800.00) during the school years 1974-75 through 1978-79 may elect to make back contributions to the retirement system by paying the five percent (5%) contributions on the difference between Seven Thousand Eight Hundred Dollars (\$7,800.00) and the actual salary of the member, not to exceed Ten Thousand Dollars (\$10,000.00) for each applicable school year, plus interest as determined by the Board of Trustees. No retirement benefit payments shall be made retroactively.

F. Each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period, the proper percentage of his earnable compensation as provided for in subsection B of this section.

1. Deductions shall begin with the first payroll period of the school year. In determining the amount earnable by a member in a payroll period, the Board of Trustees shall consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one percent (1/10 of 1%) of the annual compensation upon the basis of which such deduction is to be made. Prior to January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the normal cost, which shall mean the single sum which would have been paid under

existing statutes at the time the service was performed, plus interest, for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. Effective January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the amount determined by the Board of Trustees pursuant to Section ~~30~~ 17-116.8 of this ~~act~~ title for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. For purposes of this option, teaching service in Oklahoma shall include the teaching of vocational agricultural courses within Oklahoma for the federal government. Years for which contributions are paid shall count as membership service under this plan. A member may receive credit for not more than five (5) years of teaching service rendered in the public schools, American Military Dependent Schools or state colleges or state universities outside this state by paying his contributions, plus interest, and membership fees to the retirement system, subject to the regulations of the Board of Trustees, providing he is not receiving and is not eligible to receive retirement credit or benefits from said service in any other public retirement system of this state or any other state subject to the following provisions:

- a. The member is required to have two (2) years of employed service teaching earned in Oklahoma for each year of out-of-state, noncovered in-state or military membership credit granted.
- b. Prior to January 1, 1991, the out-of-state or noncovered in-state payment shall be the normal cost, which means the single sum which would have been paid under existing law at the time the service was

performed, plus interest, on the basis of what his annual salary would have been in Oklahoma or out of state, whichever is greater, had he been employed as a teacher. Effective January 1, 1991, the out-of-state noncovered in-state payment shall be the amount determined by the Board of Trustees pursuant to Section ~~30~~ 17-116.8 of this ~~act~~ title.

2. In addition to the deductions hereinabove provided for, any member who becomes a member of the Armed Forces of the United States of America during any period of national emergency, including World War II, the Korean conflict, the Vietnam conflict or others as may be determined by the Board of Trustees, or whose entrance into or training for the teaching profession was interrupted by his entrance into the Armed Forces, and who was or shall have become a member of the Teachers' Retirement System shall be granted the privilege of making up his five percent (5%) contributions as provided for in this section until January 1, 1991, for not to exceed five (5) years of service in the Armed Forces by electing to pay said contributions on the basis of the rate of pay in his contract as a teacher at the time his service in the Armed Forces commenced or in the case of a teacher who was not teaching prior to entering the Armed Forces, on the basis of the salary of the first year of teaching after being honorably discharged from the Armed Forces. Effective January 1, 1991, the member will receive such service upon payment of the amount determined by the Board of Trustees pursuant to Section ~~30~~ 17-116.8 of ~~Enrolled Senate Bill No. 810 of the 2nd Session of the 42nd Oklahoma Legislature~~ this title. Such contributions shall be credited in the regular manner, and the period for which said contributions were paid shall be counted as creditable years of service and allocated to the period during which the military service was rendered, except that the period for which contributions

were paid must have been continuous and shall be credited in the aggregate, regardless of fiscal year limitations.

G. The total creditable service of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred twenty (120) days of unused sick leave accumulated subsequent to August 1, 1959. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of creditable service credit. This paragraph shall apply to members retiring or vesting on or after the effective date of this act and shall not be retroactive.

H. Prior to January 1, 1991, any member who shall be absent from the teaching service because of election to the State Legislature or appointment to the executive branch in an education-related capacity shall be allowed to retain his membership in the Teachers' Retirement System upon payment of the five percent (5%) contribution as provided for in this section and his service credits shall continue to be accumulated during such absence. Effective January 1, 1991, any member who shall be absent from the teaching service because of election to the State Legislature or appointment to the executive branch in an education-related capacity shall be allowed to retain membership in the Retirement System upon payment of the amount determined by the Board of Trustees pursuant to Section 30 of this act and his service credit shall continue to be accumulated during such absence.

I. Prior to January 1, 1991, any member who shall be absent from the teaching service because of election or appointment as a local, state or national education association officer shall be allowed to retain his membership in the Teachers' Retirement System upon payment of the five percent (5%) contribution as provided for in this section and his service credits shall continue to be accumulated during such absence. Effective January 1, 1991, any member who shall be absent from the teaching service because of

election or appointment as a local, state or national education association officer shall be allowed to retain his membership to the Retirement System upon payment of the amount determined by the Board of Trustees pursuant to Section ~~30~~ 17-116.8 of this ~~act~~ title and his service credits shall continue to be accumulated during such absence. Provided, however, any one such absence shall not exceed eight (8) continuous years.

J. A member may receive credit for those years of credited service accumulated by the member while a member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, or the Oklahoma Public Employees Retirement System, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. A member also may receive credit for those years of service with the Oklahoma Department of Wildlife or with an employer that is a participating employer within one of the state retirement systems specifically referred to in this section when at the time of such service by the member the employer was not such a participating employer, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit provided in this subsection, effective January 1, 1990, the member shall pay a ten percent (10%) contribution and interest of not to exceed ten percent (10%), as determined by the Board of Trustees and effective January 1, 1991, the member shall pay the amount determined by the Board of Trustees pursuant to Section ~~30~~ 17-116.8 of this ~~act~~ title. A member may receive credit for those years of credited service while employed by a sub-state planning district, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service

credit, the member must be continuously employed by an employer with responsibility and authority for public education since September 1, 1986, and the member must pay a ten percent (10%) contribution and interest of not to exceed ten percent (10%), as determined by the Board of Trustees.

K. Any member whose regular annual compensation was not determined as provided for by law may pay the member contribution required pursuant to subsection B of this section on such amount not included in the member's regular annual compensation and receive credit for such amount in the calculation of the member's benefit.

L. Any active member who elected during the 1978-79 school year to pay the difference between five percent (5%) on actual salary not exceeding Ten Thousand Dollars (\$10,000.00) and six percent (6%) on actual salary not exceeding Fifteen Thousand Dollars (\$15,000.00) shall receive credit for one (1) year of credited service upon receipt and approval of a proper request by the Board of Trustees.

M. Any person who has never been a member of the System but who may have been eligible to become a member of the System may receive credit for those years of service during which the person may have been eligible to join the System, upon payment of the five percent (5%) contribution, plus interest, to the System if salary was greater than Two Thousand Dollars (\$2,000.00). The option provided for in this subsection shall be exercised before December 1, 1987.

N. Effective July 1, 1988, any member who is employed by the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall be allowed to elect to retain membership in the Retirement System upon payment of the accrued and current member contributions as provided in subsection B of this section. Such contributions may be paid on behalf of the member by the employing entity. Upon payment of such contributions, service credits shall continue to be accumulated during such employment. Accrued contributions shall be paid to the Retirement System by

August 1, 1989. Current contributions shall be paid to the Retirement System by the tenth of the following month beginning with the month of July 1989.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 915, is amended to read as follows:

Section 915. A. (1) Except as provided in paragraph (2) of this subsection, any member who shall retire on or after his normal retirement date shall be entitled to receive an annual retirement benefit equal to two percent (2%) of the member's final average compensation, multiplied by the number of years credited service that has been credited to the member in accordance with the provisions of Section 913 of this title; however, the minimum amount shall be no less than the sum of One Hundred Twenty Dollars (\$120.00) per annum multiplied by the number of years of credited service. Any member who has elected a vested benefit shall be entitled to receive benefits as outlined above except the percent factor of the member's final average compensation in effect the date his employment was terminated with a participating employer shall be applicable.

(2) Any member who is a correctional officer or a probation and parole officer employed by the Department of Corrections at the time of retirement shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars (\$25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars (\$25,000.00) if elected by the member pursuant to Section 902 of this title but not exceeding Forty Thousand Dollars (\$40,000.00), multiplied by the number of years of service as a correctional officer or a probation and parole officer, provided, any years accrued prior to July 1, 1990, as a correctional officer or a probation and parole officer by a member who is employed as a

correctional officer or a probation and parole officer on July 1, 1990 shall be calculated for retirement purposes at two and one-quarter percent (2 1/4%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars (\$25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars (\$25,000.00) if elected by the member pursuant to Section 902 of this title but not exceeding Forty Thousand Dollars (\$40,000.00), multiplied by the number of years of such service and any years in excess of twenty (20) years as such an officer or years credited to the member in accordance with the provisions of Section 913 of this title shall be calculated for retirement purposes at two percent (2%) of the final average compensation of the member multiplied by the number of years of such service. Any person who contributes to the System as a correctional officer or a probation and parole officer as provided in paragraph (b) of subsection (1) of Section 919.1 of this title, and who does not qualify for normal retirement under subparagraph (c) of paragraph (24) of Section 902 of this title shall have retirement benefits for each year of full-time-equivalent participating service as a correctional or a probation and parole officer after July 1, 1990 computed on two and one-half percent (2 1/2%) of the final average compensation based upon those years as a correctional officer or a probation and parole officer.

(3) Upon death of a retirant, there shall be paid to his beneficiary an amount equal to the excess, if any, of his accumulated contributions over the sum of all retirement benefit payments made.

(4) Such annual retirement benefits shall be paid in equal monthly installments, except that the Board may provide for the payment of retirement benefits which total less than Two Hundred Forty Dollars (\$240.00) a year on other than a monthly basis.

(5) In the event that an application in such form as may be prescribed by the Board for any amount due under the provisions of this act is not filed with the office of the Retirement System by the person entitled to same within one (1) year of the date such amount became due and payable, an amount equal to same shall be transferred to the retirement benefit accumulation reserve and such amount shall no longer be due and payable; however, if any such person shall present evidence satisfactory to the Board that his failure to file such application within said time period was due to lack of knowledge or incapacity on his part, the amount equal to the amount originally due shall be transferred from the retirement benefit accumulation reserve to the reserve or reserves from which such transfer was initially made and the amount originally due shall be paid to such person.

(6) The annual retirement benefit of a member who is age sixty-two (62) years or older and who has earned more than ten (10) years credited service shall be increased two percent (2%) per year for each year said member delays his or her date of retirement beyond said member's normal retirement date for a continuous period not to exceed ten (10) years. A member shall not receive an increase in his or her annual retirement benefit as provided in this paragraph for those years of service credited after said member attains age sixty-two (62) years and prior to the effective date of this act.

B. A member shall be considered disabled if such member qualifies for the payment of Social Security disability benefits, and shall be eligible for benefits hereunder upon proof of such disability, provided such member is an active regularly scheduled employee with a participating employer at the time of injury or inception of illness or disease resulting in subsequent certification of eligibility for Social Security disability benefits by reason of such injury, illness or disease, providing such disability is certified by the Social Security Administration within

one (1) year after the last date physically on the job and after completion of at least eight (8) years of participating service or combined prior and participating service. The member shall submit to the Retirement System the Social Security Award Notice certifying the date of entitlement for disability benefits, as issued by the Social Security Administration, Department of Health and Human Services. Disability benefits shall become effective on the date of entitlement as established by the Social Security Administration, but not before the first day of the month following removal from the payroll, whichever is later, and final approval by the Retirement System. Benefits shall be based upon length of service and compensation as of the date of disability, without actuarial reduction because of commencement prior to the normal retirement date. The only optional form of benefit payment available for disability benefits is Option A as provided for in Section 918 of this title. Option A must be elected in accordance with the provisions of Section 918 of this title. Benefit payments shall cease upon the member's recovery from disability prior to the normal retirement date. Future benefits, if any, shall be paid based upon length of service and compensation as of the date of disability. In the event that disability ceases and the member returns to employment within the System credited service to the date of disability shall be restored, and future benefits shall be determined accordingly.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 11th day of March, 1992.

President of the Senate

Passed the House of Representatives the ____ day of

_____, 1992.

Speaker of the House of
Representatives