

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
SENATE BILL NO. 526

By: Monson and Robinson of
the Senate

and

Roberts and McCorkell of
the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to retirement; amending 11 O.S. 1991, Sections 49-126, as amended by Section 4, Chapter 322, O.S.L. 1993, and 50-124, as amended by Section 5, Chapter 322, O.S.L. 1993 (11 O.S. Supp. 1994, Sections 49-126 and 50-124), which relate to the Police and Firefighters' Retirement Systems; providing for child support; amending 20 O.S. 1991, Section 1111, as amended by Section 7, Chapter 322, O.S.L. 1993 (20 O.S. Supp. 1994, Section 1111), which relates to the Judges Retirement Systems; providing for child support; 47 O.S. 1991, Section 2-303.3, as amended by Section 12, Chapter 322, O.S.L. 1993 (47 O.S. Supp. 1994, Section 2-303.3), which relates to the Law Enforcement Retirement System; providing for child support; 70 O.S. 1991, Section 17-109, as amended by Section 17, Chapter 322, O.S.L. 1993 (70 O.S. Supp. 1994, Section 17-109), which relates to the Teachers' Retirement System; providing for child support; 74 O.S. 1991, Sections 902, as last amended by Section 35 of Enrolled House Bill No. 1012 of the 1st Session of the 45th Oklahoma Legislature, 910, as amended by Section 14, Chapter 376, O.S.L. 1992, 915, as last amended by Section 10, Chapter 383 O.S.L. 1994, 923, as amended by Section 28, Chapter 322, O.S.L. 1993 (74 O.S. Supp. 1994, Sections 910, 915 and 923), which relate to the Oklahoma Public Employees Retirement System; modifying final average compensation definition; modifying definition of eligible employers; providing for withdrawal from the System; modifying certain benefit calculations; providing for child support; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 49-126, as amended by Section 4, Chapter 322, O.S.L. 1993 (11 O.S. Supp. 1994, Section 49-126), is amended to read as follows:

Section 49-126. A. Except as otherwise provided by this section, no portion of said pension shall, either before or after its order of distribution by the State Board to such disabled members of said fire department, or the surviving spouse or guardian of such minor child or children, to the deceased or retired member of such department, be held, seized, taken, subjected to or detained or levied on by virtue of any attachment, execution, injunction, writ interlocutory or other order or decree, or any process or proceeding, whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damages, claim, demand or judgment against such member, or his or her surviving spouse, or the guardian of said minor child or children of any deceased member, nor shall said fund or any claim thereto be directly or indirectly assigned and any attempt to assign or transfer the same shall be void; but the funds shall be held, kept, secured and distributed for the purpose of pensioning the persons named in this article, and for no other purpose whatever.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or for support of a minor child or children and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the System. With respect to qualified domestic orders requiring the payment of child support, the provisions of this act shall be effective for child support due on or after July 1, 1995.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the

commencement of the proceedings from which the qualified domestic order issues.

4. For purposes of the payment of child support, to qualify as an alternative payee, a person must be lawfully invested with the power, and charged with the duty of taking care of the member's minor child or managing the property of the member's minor child or children.

5. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

~~5.~~ 6. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

~~6.~~ 7. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

~~7.~~ 8. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

~~8.~~ 9. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

~~9.~~ 10. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

~~10.~~ 11. The Oklahoma Firefighters Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

~~11.~~ 12. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the State Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 50-124, as amended by Section 5, Chapter 322, O.S.L. 1993 (11 O.S. Supp. 1994, Section 50-124), is amended to read as follows:

Section 50-124. A. Except as otherwise provided by this section, no portion of any of the funds of the System shall, either before or after any order made by the State Board for payment to any person entitled to a pension or allowance, be held, seized, taken, subjected to, or detained, or levied on by virtue of any garnishment, attachment, execution, injunction, or other order or decree or any process or proceeding whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against any such person entitled to payment, nor shall said payments or any claim thereto be directly or indirectly assigned, and any attempt to assign or transfer the same shall be void. The said funds shall be held, invested, secured and

distributed for the purposes named in this article, and for no other purpose whatever.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or for support of a minor child or children and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the System. With respect to qualified domestic orders requiring the payment of child support, the provisions of this act shall be effective for child support due on or after July 1, 1995.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. For purposes of the payment of child support, to qualify as an alternative payee, a person must be lawfully invested with the power, and charged with the duty of taking care of the member's minor child or managing the property of the member's minor child or children.

5. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

~~5.~~ 6. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,

- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

~~6.~~ 7. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

~~7.~~ 8. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

~~8.~~ 9. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

~~9.~~ 10. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

~~10.~~ 11. The Oklahoma Police Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

~~11.~~ 12. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the State

Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 3. AMENDATORY 20 O.S. 1991, Section 1111, as amended by Section 7, Chapter 322, O.S.L. 1993 (20 O.S. Supp. 1994, Section 1111), is amended to read as follows:

Section 1111. A. Except as otherwise provided by this section, any annuity, benefit, fund, property or right created by or accruing to any person under any provision of The Uniform Retirement System for Justices and Judges, Section 1101 et seq. of this title, are hereby made and declared exempt from and not subject to execution, garnishment, or attachment or any other process or claim whatsoever, and shall be unassignable except as specifically provided by said act.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or for support of a minor child or children and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the System. With respect to qualified domestic orders requiring the payment of child support, the provisions of this act shall be effective for child support due on or after July 1, 1995.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. For purposes of the payment of child support, to qualify as an alternative payee, a person must be lawfully invested with the power, and charged with the duty of taking care of the

member's minor child or managing the property of the member's minor child or children.

5. A qualified domestic order is valid and binding on The Uniform Retirement System for Justices and Judges and the related member only if it meets the requirements of this subsection.

~~5.~~ 6. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by The Uniform Retirement System for Justices and Judges to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

~~6.~~ 7. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to The Uniform Retirement System for Justices and Judges,
- b. does not require The Uniform Retirement System for Justices and Judges to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by The Uniform Retirement System for Justices and Judges as a valid order prior to the effective date of this act.

~~7.~~ 8. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

~~8.~~ 9. The obligation of The Uniform Retirement System for Justices and Judges to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

~~9.~~ 10. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

~~10.~~ 11. The Board of Trustees of the Oklahoma Public Employees Retirement System shall promulgate such rules as are necessary to implement the provisions of this subsection.

~~11.~~ 12. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board of Trustees of the Oklahoma Public Employees Retirement System pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 2-303.3, as amended by Section 12, Chapter 322, O.S.L. 1993 (47 O.S. Supp. 1994, Section 2-303.3), is amended to read as follows:

Section 2-303.3 A. Except as otherwise provided by this section, any annuity, benefits, fund, property, or rights created by or accruing to any person pursuant to the provisions of Sections 2-300 through 2-313 of this title shall not be subject to execution, garnishment or attachment, and shall be unassignable, except as specifically provided by Sections 2-300 through 2-313 of this title.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or for support of a minor child or children and which

creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the System. With respect to qualified domestic orders requiring the payment of child support, the provisions of this act shall be effective for child support due on or after July 1, 1995.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. For purposes of the payment of child support, to qualify as an alternative payee, a person must be lawfully invested with the power, and charged with the duty of taking care of the member's minor child or managing the property of the member's minor child or children.

5. A qualified domestic order is valid and binding on the Board and the related member only if it meets the requirements of this subsection.

~~5.~~ 6. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

~~6.~~ 7. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,

- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

~~7.~~ 8. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

~~8.~~ 9. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

~~9.~~ 10. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

~~10.~~ 11. The Oklahoma Law Enforcement Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

~~11.~~ 12. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 5. AMENDATORY 70 O.S. 1991, Section 17-109, as amended by Section 17, Chapter 322, O.S.L. 1993 (70 O.S. Supp. 1994, Section 17-109), is amended to read as follows:

Section 17-109. A. Except as otherwise provided by this section, the right of a person to an annuity or a retirement allowance, to the return of contributions, annuity, or retirement allowance itself, any optional benefit, or any other right accrued or accruing to any person under the provisions of this act, and the monies in the various funds created by this act, are hereby

exempt from levy and sale, garnishment, attachment or any other process whatsoever, and shall be unassignable except as in this act specifically provided.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or for support of a minor child or children and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the Retirement System. With respect to qualified domestic orders requiring the payment of child support, the provisions of this act shall be effective for child support due on or after July 1, 1995.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. For purposes of the payment of child support, to qualify as an alternative payee, a person must be lawfully invested with the power, and charged with the duty of taking care of the member's minor child or managing the property of the member's child or children.

5. A qualified domestic order is valid and binding on the Board of Trustees and the related member only if it meets the requirements of this subsection.

~~5.~~ 6. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

- b. the amount or percentage of the member's benefits to be paid by the Retirement System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

~~6.~~ 7. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the Retirement System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the Retirement System,
- b. does not require the Retirement System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the Retirement System as a valid order prior to the effective date of this act.

~~7.~~ 8. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

~~8.~~ 9. The obligation of the Retirement System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

~~9.~~ 10. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

~~10.~~ 11. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this subsection.

~~11.~~ 12. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board of Trustees pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 902, as last amended by Section 35 of Enrolled House Bill No. 1012 of the 1st Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 902. As used in this act:

(1) "System" means the Oklahoma Public Employees Retirement System as established by this act and as it may hereafter be amended;

(2) "Accumulated contributions" means the sum of all contributions by a member to the System which shall be credited to the member's account;

(3) "Act" means Sections 901 to 932, inclusive, of this title;

(4) "Actuarial equivalent" means a deferred income benefit of equal value to the accumulated deposits or benefits when computed upon the basis of the actuarial tables in use by the System;

(5) "Actuarial tables" means the actuarial tables approved and in use by the Board at any given time;

(6) "Actuary" means the actuary or firm of actuaries employed by the Board at any given time;

(7) "Beneficiary" means any person named by a member to receive any benefits as provided for by this act. If there is no beneficiary living at time of member employee's death, his estate shall be the beneficiary;

(8) "Board" means the Oklahoma Public Employees Retirement System Board of Trustees;

(9) "Compensation" means all salary and wages, including amounts deferred under deferred compensation agreements entered

into between a member and a participating employer, but exclusive of payment for overtime, payable to a member of the System for personal services performed for a participating employer, including maintenance, or any allowance in lieu thereof provided a member as a part of compensation but shall not include compensation or reimbursement for traveling, or moving expenses, or except as otherwise provided in this paragraph, any compensation in excess of the maximum compensation level, provided:

- (a) For compensation for service prior to July 1, 1994, the maximum compensation level shall be Twenty-five Thousand Dollars (\$25,000.00) per annum, unless the member made an election, in writing and filed with the System, to increase the member's maximum compensation level to Forty Thousand Dollars (\$40,000.00) per annum. The election and payment of all contributions due must have been completed within three (3) years of the member's initial opportunity to increase the compensation level. Any active member whose initial opportunity to make the election was on or after July 1, 1991, but no later than June 30, 1994, may make the election by filing the written election form with the System and paying the amount of contribution the member would have paid had the member made the election when initially eligible; provided, this election and payment must be completed no later than February 1, 1995.
- (b) For compensation for service on or after July 1, 1994, through June 30, 1995, the maximum compensation level shall be Fifty Thousand Dollars (\$50,000.00) per annum; for compensation for service on or after July 1, 1995, through June 30, 1996, the maximum compensation level shall be Sixty Thousand Dollars (\$60,000.00) per annum; for compensation for service on or after July 1, 1996 through June 30, 1997, the maximum compensation level shall be

Seventy Thousand Dollars (\$70,000.00) per annum; and for compensation for service on or after July 1, 1997 through June 30, 1998, the maximum compensation level shall be Eighty Thousand Dollars (\$80,000.00) per annum. For compensation for services on or after July 1, 1998, there shall be no maximum compensation level for retirement purposes.

- (c) Any active member whose compensation exceeded Twenty-five Thousand Dollars (\$25,000.00) prior to July 1, 1994, and who failed to make a timely election to increase the member's maximum compensation level pursuant to paragraph (a) of this subsection, may do so at any time prior to retirement. Any such member electing this maximum compensation level for service prior to July 1, 1994, shall pay to the System a sum equal to the total amount of contributions that would have been required by the member had a timely election been made, plus seven and one-half percent (7.5%) interest compounded annually. Members so making this election may amortize the payments as provided in subsection B of Section 913.5 of this title.
- (d) Compensation for retirement purposes shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of non-elective salary reduction under Section 414(h) of the Internal Revenue Code of 1986.
- (e) A member who has voluntarily elected to increase the maximum compensation level pursuant to paragraph (a) of this subsection, upon retirement, shall be refunded, pursuant to procedures established by the Board, the employee contributions made on compensation which is in excess of the final average compensation of the member and was not used to determine the member's final average compensation;

(10) "Credited service" means the sum of participating service, prior service and elected service;

(11) "Dependent" means a parent, child, or spouse of a member who is dependent upon the member for at least one-half (1/2) of his support;

(12) "Effective date" means the date upon which the System becomes effective by operation of law;

(13) "Eligible employer" means the state and any county, county hospital, city or town, conservation districts, and any public or private trust in which a county, city or town participates and is the primary beneficiary is to be an eligible employer for the purpose of this act only, whose employees are covered by Social Security and are not covered by or eligible for another retirement plan authorized under the laws of this state which is in operation on the initial entry date. A public trust created pursuant to Sections 176 et seq. of Title 60 of the Oklahoma Statutes having the State of Oklahoma as its beneficiary and which is not a participating employer on the effective date of this act shall not be an eligible employer within the meaning of this subsection unless the trustees of the trust, by a majority of those constituting the board of trustees, affirmatively vote to have the trust become an eligible employer within the meaning of this subsection. The written record of the election to have the trust become an eligible employer shall be certified and transmitted to the Board of Trustees for the System. From the date specified by the trustees pursuant to the election, all eligible employees of the trust shall become members of the System. Emergency medical service districts may join the System upon proper application to the Board. Provided affiliation by a county hospital shall be in the form of a resolution adopted by the board of control.

- (a) If a class or several classes of employees of any above-defined employers are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in

operation on the effective date, such employer shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this section.

- (b) A class or several classes of employees who are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, and when the qualifications for employment in such class or classes are set by state law; and when such class or classes of employees are employed by county or municipal government pursuant to such qualifications; and when the services provided by such employees are of such nature that they qualify for matching by or contributions from state or federal funds administered by an agency of state government which qualifies as a participating employer, then the agency of state government administering the state or federal funds shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this subsection; provided, that the required contributions to the retirement plan may be withheld from the contributions of state or federal funds administered by the state agency and transmitted to the System on the same basis as the employee and employer contributions are transmitted for the direct employees of the state agency. The retirement or eligibility for retirement under the provisions of law providing pensions for service as a volunteer fire fighter shall not render any person ineligible for participation in the benefits provided for in this act. An employee of any public or private trust in which a county, city or town participates and is the primary beneficiary shall be

deemed to be an eligible employee for the purpose of this act only;

(14) "Employee" means any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary or wage is equal to the hourly rate of the monthly minimum wage for state employees as provided in Section 284 of this title. For those eligible employers outlined in Section 910 of this title, the rate shall be equal to the hourly rate of the monthly minimum wage for that employer. Each employer, whose minimum wage is less than the state's minimum wage, shall inform the System of the minimum wage for that employer. This notification shall be by resolution of the governing body.

- (a) Any employee of the county extension agents who is not currently participating in the Teachers' Retirement System shall be a member of this System.
- (b) Eligibility shall not include any employee who is a contributing member of the United States Civil Service Retirement System.
- (c) It shall be mandatory for an officer, appointee or employee of the office of district attorney to become a member of this System if he is not currently participating in a county retirement system. Provided further, that if an officer, appointee or employee of the office of district attorney is currently participating in such county retirement system, he is ineligible for this System as long as he is eligible for such county retirement system. Any eligible officer, appointee or employee of the office of district attorney shall be given credit for prior service as defined in this section. The provisions outlined in Section 917 of this title shall apply to those employees who have previously withdrawn their contributions.

(d) Eligibility shall also not include any officer or employee of the Oklahoma Employment Security Commission, except for those officers and employees of the Commission electing to transfer to this System pursuant to the provisions of Section 910.1 of this title or any other class of officers or employees specifically exempted by the laws of this state, unless there be a consolidation as provided by Section 912 of this title. Employees of the Oklahoma Employment Security Commission who are ineligible for enrollment in the Employment Security Commission Retirement Plan, that was in effect on January 1, 1964, shall become members of this System.

(e) Any employee employed by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session shall be eligible for membership in the System regardless of classification as a temporary employee and may participate in the System during the regular legislative session at the option of the employee. For purposes of this subsection, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives. Once such an employee makes a choice to participate or not, the choice shall be binding for all future legislative sessions during which the employee is employed except as otherwise provided in this subsection.

~~Notwithstanding the previous sentence, any employee, who is eligible for membership in the System because~~

~~of the provisions of this subsection and who was employed by the State Senate or House of Representatives after January 1, 1989, may file an election, in a manner specified by the Board, to participate as a member of the System prior to September 1, 1989. Despite an initial election not to participate in the System, a temporary legislative session employee may participate in the System and receive participating service credit for periods of legislative session service as otherwise provided in this paragraph. To receive this service credit after an initial election not to participate, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title. Each regular legislative session during which a legislative employee or an employee of the Legislative Service Bureau participates full time shall be counted as six (6) months of full-time participating service. Notwithstanding the provisions of this paragraph, a temporary legislative session employee who elected to become a member of the System may withdraw from the System effective the day said employee elected to participate in the System upon written request to the Board. Any such request must be received by the Board prior to October 1, 1990. All employee contributions made by the temporary legislative session employee shall be returned to the employee without interest within four (4) months of receipt of the written request;~~

(15) "Entry date" means the date as of which an eligible employer joins the System. The first entry date pursuant to this act shall be January 1, 1964;

(16) "Executive Director" means the managing officer of the System employed by the Board under this act;

(17) "Final average compensation" means the average annual salary, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, up to, but not exceeding the maximum compensation levels as provided in subsection (9) of this section received as follows:

- (a) for service rendered prior to July 1, 1994, the highest three (3) of the last ten (10) years of participating service immediately preceding July 1, 1994, or, if participating service is less than three (3) years, the full period of participating service prior to July 1, 1994. Provided, no member shall retire with a final average compensation for service rendered prior to July 1, 1994, in excess of Twenty-five Thousand Dollars (\$25,000.00) unless the member has made the required election and has paid the required contributions on such salary in excess of Twenty-five Thousand Dollars (\$25,000.00); and
- (b) for service rendered after July 1, 1994, the highest three (3) of the last ten (10) years of participating service immediately preceding retirement or termination of employment, or if participating service is less than three (3) years, the full period of participating service after July 1, 1994;

(18) "Fiscal year" means the period commencing July 1 of any year and ending June 30 of the next year;

(19) "Fund" means the Oklahoma Public Employees Retirement Fund as created by this act;

(20) "Leave of absence" means a period of absence from employment without pay, authorized and approved by the employer and acknowledged to the Board, and which after the effective date does not exceed two (2) years;

(21) "Member" means an eligible employee or elected official who is in the System and is making the required employee or elected official contributions, or any former employee or elected

official who shall have made the required contributions to the System and shall have not received a refund or withdrawal;

(22) "Military service" means service in the Armed Forces of the United States in time of war or national emergency, as defined in Section 67.13a of Title 72, from which the member was honorably discharged;

(23) "Normal retirement date" means the date on which a member may retire with full retirement benefits as provided in this act, such date being whichever occurs first:

- (a) the first day of the month coinciding with or following a member's sixty-second birthday;
- (b) for any person who initially became a member prior to July 1, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total eighty (80); such a normal retirement date will also apply to any person who became a member of the sending system as defined in this act, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992;
- (c) for any person who became a member after June 30, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total ninety (90); or
- (d) in addition to subparagraphs (a), (b) and (c) of this paragraph, the first day of the month coinciding with or following a member's fiftieth birthday if the member has at least twenty (20) years of full-time-equivalent employment as a correctional or probation and parole officer with the Department of Corrections and at the time of retirement, the member was a correctional or probation and parole officer with the Department of Corrections;

(24) "Participating employer" means an eligible employer who has agreed to make contributions to the System on behalf of its employees;

(25) "Participating service" means the period of employment after the entry date for which credit is granted a member;

(26) "Prior service" means the period of employment of a member by an eligible employer prior to his entry date for which credit is granted a member under this act;

(27) "Retirant" means a member who has retired under the System;

(28) "Retirement benefit" means a monthly income with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to this act or as otherwise allowed to be paid at the discretion of the Board;

(29) "Retirement coordinator" means the individual designated by each participating employer through whom System transactions and communication shall be directed;

(30) "Social Security" means the old-age survivors and disability section of the Federal Social Security Act;

(31) "Total disability" means a physical or mental disability accepted for disability benefits by the Federal Social Security System;

(32) "Service-connected disability benefits" means military service benefits which are for a service-connected disability rated at twenty percent (20%) or more by the Veterans Administration or the Armed Forces of the United States;

(33) "Elected official" means a person elected to a state office in the legislative or executive branch of state government or a person elected to a county office for a definite number of years and shall include an individual who is appointed to fill the unexpired term of an elected state official;

(34) "Elected service" means the period of service as an elected official; and

(35) "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 910, as amended by Section 14, Chapter 376, O.S.L. 1992 (74 O.S. Supp. 1994, Section 910), is amended to read as follows:

Section 910. (1) An eligible employer may join the System in January of any year. Application for affiliation shall be in the form of a resolution approved by the governing or legislative body of the eligible employer or by any other body or officer authorized by the law or recognized by the Board to approve such resolution or action; provided, that no county hospital, city or town, or any public or private trust in which a county, city or town participates and is the primary beneficiary shall become a participating employer except by the adoption of a resolution therefor, unless otherwise provided in this act. Upon the filing of a certified copy of such resolution with the Board, the employer shall become a participating employer on January 1 of the year immediately following the filing of such election with the Board. Such election shall be final and irrevocable and any employer now or hereafter participating in the System shall not be permitted to withdraw from the System under any circumstances, including a change in legal identity of such employer, where the purpose and functions of such employer remain essentially the same as at the time of filing of entry into the System. Provided, however, any hospital joining the System during the period commencing December 1, ~~1977~~ 1989, and ending January 31, ~~1978~~ 1990, shall be permitted to withdraw from the System by the adoption of resolution therefor by the hospital board of control. Upon the filing of a certified copy of such resolution with the Board and upon the Board's determining that arrangements have been made for the payment of all financial obligations, if any, due the System by such withdrawing hospital, such hospital shall cease to be a participating employer on the first day of the month immediately following such determination and the filing of such resolution with the Board. The employees of any such hospital

withdrawing from the System shall have such rights as are provided by Section 912.1 of this title. Any hospital that withdraws under the provisions of this act shall be responsible for the payment of any actuarial cost required as a result of such withdrawal.

Provided, however, any county having a population of less than four hundred thousand (400,000), according to the latest Federal Decennial Census, shall become a participating employer on January 1, 1974, notwithstanding any other provision of statute.

(2) The State of Oklahoma, in its capacity as an eligible employer shall become a participating employer on the first entry date and thereafter on the entry date immediately following the creation of any state agency not now in existence.

(3) From and after the passage of this act no county hospital, or county or state governmental agency, shall institute a retirement system other than as provided for in this act, except as to any other supplemental retirement plans otherwise expressly provided for by law.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 915, as last amended by Section 10, Chapter 383, O.S.L. 1994 (74 O.S. Supp. 1994, Section 915), is amended to read as follows:

Section 915. A. (1) Except as provided in paragraph (2) of this subsection and as provided for elected officials in Section 913.4 of this title, any member who shall retire on or after his normal retirement date shall be entitled to receive an annual retirement benefit equal to:

- a. two percent (2%) of the member's final average compensation as determined pursuant to paragraph (a) of subsection ~~(18)~~ (17) of Section 902 of this title, multiplied by the number of years credited service rendered or attributed to time prior to July 1, 1994, that has been credited to the member in accordance with the provisions of Section 913 of this title, and
- b. two percent (2%) of the member's final average compensation as determined pursuant to paragraph (b) of subsection ~~(18)~~ (17) of Section 902 of this

title, multiplied by the number of years of credited service rendered or attributed to time after July 1, 1994, that has been credited to the member in accordance with the provisions of Section 913 of this title,

- c. provided, however, for purposes of determining the member's number of years of credited service, for every twelve (12) months of participating service rendered after July 1, 1994, twelve (12) months of participating service rendered prior to July 1, 1994, shall be subtracted from the calculation of benefits in subparagraph a of paragraph (1) of this section and shall be utilized in the calculation of benefits in subparagraph b of paragraph (1) of this subsection. Members who failed to elect to increase the maximum compensation level pursuant to subsection ~~(10)~~ (9) of Section 902 of this title shall not be eligible for the service credit adjustment provided for in this subparagraph,
- d. provided, further, the minimum final average compensation for any member retiring on or after July 1, 1994, shall be no less than Thirteen Thousand Eight Hundred Dollars (\$13,800.00) per annum multiplied by the number of years of credited service and reduced as provided by subsection A or subsection B, as applicable, of Section 930.3 of this title,
- e. any member who has elected a vested benefit pursuant to Section 917 of this title shall be entitled to receive benefits as outlined in this section 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
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the time of retirement shall be entitled to receive an annual retirement benefit equal to:

- a. 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 as determined pursuant to paragraph (a) of subsection 17 of Section 902 of this title but not exceeding the maximum compensation level as provided in subsection ~~(10)~~ (9) of Section 902 of this title, multiplied by the number of years of service rendered or attributed to time prior to July 1, 1994, 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 as determined pursuant to paragraph (a) of subsection 17 of Section 902 of this title but not exceeding Forty Thousand Dollars (\$40,000.00), multiplied by the number of years of such service rendered or attributed to time prior to July 1, 1994, and~~
- b. 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 compensation in

excess of Twenty-five Thousand Dollars (\$25,000.00)
as determined pursuant to paragraph (b) of
subsection (17) of Section 902 of this title but not
exceeding the maximum compensation level as provided
in subsection (9) of Section 902 of this title,
multiplied by the number of years of service
rendered or attributed to time after July 1, 1994 as
a correctional officer or a probation and parole
officer,

c. provided, 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,~~

d. any person who contributes to the System as a
correctional officer or a probation and parole
officer as provided in paragraph (c) of subsection
(1) of Section 919.1 of this title, and who does not
qualify for normal retirement under subparagraph (c)
of paragraph ~~(24)~~ (23) 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,

e. for purposes of determining the number of years of
credited service for a member who is a correctional
officer or a probation and parole officer employed
by the Department of Corrections at the time of
retirement, for every twelve (12) months of
participating service rendered after July 1, 1994,
twelve (12) months of participating service rendered

prior to July 1, 1994, shall be subtracted from the calculation of benefits in subparagraph a of paragraph (2) of this section. Members who failed to elect to increase the maximum compensation level pursuant to subsection (9) of Section 902 of this title shall not be eligible for the service credit adjustment provided in this subparagraph,

f. the minimum final average compensation for any member retiring on or after July 1, 1994, who is a correctional officer or a probation and parole officer employed by the Department of Corrections at the time of retirement, shall be no less than Thirteen Thousand Eight Hundred Dollars (\$13,800.00) per annum, and

g. any member who was last employed by the Department of Corrections as a correctional officer or a probation and parole officer at the time of electing a vested benefit pursuant to Section 917 of this title shall be entitled to receive benefits as outlined in this paragraph except the percent factor of the member's final average compensation in effect the date his or her employment was terminated with the Department of Corrections shall be applicable.

(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) Pursuant to the rules established by the Board, a retiree receiving monthly benefits from the System may authorize warrant deductions for any products currently offered to active state employees through the Employees Benefits Council, provided that product is offered to state retirees as a group and has a minimum

participation of five hundred state retirees. The System has no responsibility for the marketing, enrolling or administration of such products, but shall retain a processing fee of two percent (2%) of the gross deductions for the products. Retirement benefit deductions shall be made for membership dues for any statewide association for which payroll deductions are authorized pursuant to subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes for retired members of any state-supported retirement system, upon proper authorization given by the member to the board from which the member or beneficiary is currently receiving retirement benefits.

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

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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. AMENDATORY 74 O.S. 1991, Section 923, as amended by Section 28, Chapter 322, O.S.L. 1993 (74 O.S. Supp. 1994, Section 923), is amended to read as follows:

Section 923. A. Except as otherwise provided by this section, no alteration, amendment, or repeal of this act shall affect the then existing rights of members and beneficiaries, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by an employee after such alteration, amendment, or repeal. Any annuity, benefits, fund, property, or rights created by or accruing to any person under the provisions of this act shall not be subject to execution, garnishment or attachment, or any other process or claim whatsoever, and shall be unassignable, except as specifically provided by this act.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or for support of a minor child or children and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the System and amounts payable to a plan participant of the Oklahoma State Employees Deferred Compensation Plan as provided pursuant to Section 1701 et seq. of this title. With respect to qualified

domestic orders requiring the payment of child support, the provisions of this act shall be effective for child support due on or after July 1, 1995.

3. ~~To~~ For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. For purposes of the payment of child support, to qualify as an alternative payee, a person must be lawfully invested with the power, and charged with the duty of taking care of the member's minor child or managing the property of the member's minor child or children.

5. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

~~5.~~ 6. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

~~6.~~ 7. A qualified domestic order meets the requirements of this subsection only if such order:

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

~~7.~~ 8. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

~~8.~~ 9. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

~~9.~~ 10. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

~~10.~~ 11. The Oklahoma Public Employees Retirement System Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

~~11.~~ 12. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 10. This act shall become effective July 1, 1995.

SECTION 11. 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.