STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1032 By: Monson of the Senate

and

Reese and Seikel of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to governmental officers and employees; amending 11 O.S. 1991, Section 49-113, as last amended by Section 1, Chapter 363, O.S.L. 1997 (11 O.S. Supp. 1997, Section 49-113), which relates to firefighters; specifying to whom final retirement payment is paid upon death of retiree; specifying amount of final retirement payment; amending 11 O.S. 1991, Section 50-114, as last amended by Section 2, Chapter 363, O.S.L. 1997 (11 O.S. Supp. 1997, Section 50-114), which relates to police; specifying to whom final retirement payment is paid upon death of retiree; specifying amount of final retirement payment; amending 20 O.S. 1991, Sections 1102, as last amended by Section 4, Chapter 351, O.S.L. 1994, 1102.2, 1103, and 1104, as last amended by Section 1, Chapter 323, O.S.L. 1997 (20 O.S. Supp. 1997, Sections 1102 and 1104), which relate to Justices and judges; qualifying years of service for rule of 80; correcting language; specifying to whom final retirement payment is paid upon death of retiree; specifying amount of final retirement payment; correcting language; amending 47 O.S. 1991, Section 2-306, as last amended by Section 2, Chapter 333, O.S.L. 1996 (47 O.S. Supp. 1997, Section 2-306), which relates to law enforcement officers; specifying to whom final retirement payment is paid upon death of retiree; specifying amount of final retirement payment; amending 51 O.S. 1991, Section 24.1, which relates to elected or appointed state or county officers or employees; correcting language; prohibiting forfeiture of retirement benefits under certain circumstances; amending 70 O.S. 1991, Section 17-105, as last amended by Section 23, Chapter 384, O.S.L. 1997 (70 O.S. Supp. 1997, Section 17-105), which relates to education employees; correcting language; specifying to whom final retirement payment is paid upon death of retiree; specifying amount of final retirement payment; amending 74 O.S. 1991, Sections 902, as last amended by Section 5 of Enrolled Senate Bill No. 788 of the 2nd Session of the 46th Oklahoma Legislature, Section 2, Chapter 315, O.S.L. 1997, 913, as last amended by Section 1, Chapter 255, O.S.L. 1997, 915, as last amended by Section 1, Chapter 129, O.S.L. 1997, and 917, as last amended by Section 6, Chapter 302, O.S.L. 1995 (74 O.S. Supp. 1997, Sections 910.3, 913, 915 and 917), which relate to employee benefits; correcting language; modifying language concerning maximum compensation;

removing requirement that maximum compensation level for certain years be limited by amount of contribution; deleting language concerning maximum compensation election; removing requirement that members pay actuarial equivalent cost to be eligible for increased benefit; removing certain refund provision; increasing compensation level upon which retirement benefits are based for certain persons; specifying years of credit for post and prior military service; providing normal retirement date for certain employees; deleting obsolete language; deleting deadline for Oklahoma Housing Finance Authority employees to participate in the Oklahoma Public Employees Retirement System; allowing Authority employees election to join System; correcting language; allowing purchase period of retirement service credit; allowing payment through payroll deduction; requiring Authority to provide System with certain information; providing for refund for certain employees; providing how refund shall be made; clarifying language; clarifying military service credit; correcting language; deleting wear-away provision; specifying current obligations of participating employers; providing for codification; 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 49-113, as last amended by Section 1, Chapter 363, O.S.L. 1997 (11 O.S. Supp. 1997, Section 49-113), is amended to read as follows:

Section 49-113. A. In the event of the death for any cause of a fire fighter who at the time of the fire fighter's death was drawing a pension, or who at the time of the fire fighter's death (whether death occurred while on duty but not in or in consequence of the performance of duty or while on vacation or off duty) was eligible, upon written request to retire and draw a pension, the beneficiary of such person shall be paid an amount not to exceed one hundred percent (100%) of said pension. Effective March 1, 1997, if a fire fighter to whom a retirement benefit has been awarded or who is eligible therefor dies prior to the date as of which the total amount of retirement benefit paid equals the total amount of the employee contributions paid by or on behalf of the member and the member does not have a surviving beneficiary, the total benefits paid as of the date of the member's death shall be subtracted from the accumulated employee contribution amount and

the balance, if greater than zero (0), shall be paid to the member's estate.

B. In the event of the death of the surviving spouse, the pension shall cease, and should there then be but one living child same shall receive an amount equal to one hundred percent (100%) of said pension, but if there then be more than one living child, one hundred percent (100%) of said pension shall be divided equally between the children until each child reaches the age of eighteen (18) years or until the age of twenty-two (22) years if the child is enrolled full time and regularly attending a public or private school or any institution of higher education.

C. Upon the death of an unmarried fire fighter who has children, the children shall be entitled to have paid to a survivor trust fund that has a legally appointed administrator with power to provide benefits to the children an amount not to exceed one hundred percent (100%) of said pension. Provided, that in the event the State Board finds that such a child who has not married and who at the time the child reaches the age of eighteen (18) years is either physically or mentally disabled, the pension thereof shall continue so long as such disability remains; provided, further, that upon the death of the fire fighter and surviving spouse, said physically or mentally disabled child shall be entitled to have paid to the child's legally appointed guardian an amount not to exceed one hundred percent (100%) of said pension. The money so paid to the guardian shall be used solely for the benefit of the disabled child and it shall be reported annually to the State Board. The payment so provided shall be calculated after payments have been made to all eligible children as provided in this section; provided further, that beneficiaries now receiving pensions under the provisions of Sections 49-112 or 49-113 of this title shall, upon application to the State Board, thereafter be entitled to a pension equal to the amount which they would have received if this act were in effect at the time the right to said pension accrued.

D. In the event a surviving spouse of a member remarried prior to June 7, 1993, and was a surviving spouse of a member who

died while in, or as a consequence of, the performance of the member's duty for the employer, the surviving spouse shall be eligible to receive the pension benefits provided for in this section. To receive the pension benefits provided for in this section the surviving spouse falling within this section shall submit a written request for such benefits to the Oklahoma Firefighters Pension and Retirement System. The Oklahoma Firefighters Pension and Retirement System shall approve requests by surviving spouses meeting the requirements of this section. Upon approval by the Oklahoma Firefighters Pension and Retirement System, the surviving spouse shall be entitled to the pension benefits provided for in this section beginning from the date of approval forward. Pension benefits provided to surviving spouses falling within this section shall not apply to alter any amount of pension benefits paid or due prior to the Oklahoma Firefighters Pension and Retirement System's approval of the remarried surviving spouse's written request for benefits.

E. No surviving spouse shall receive benefits from this section, Section 50-117 of this title, or Section 2-306 of Title 47 as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

F. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 50-114, as last amended by Section 2, Chapter 363, O.S.L. 1997 (11 O.S. Supp. 1997, 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. 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.

D. 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. Effective March 1, 1997, if a member to whom a retirement benefit has been awarded or who is eligible therefor dies prior to the date as of which the total amount of retirement benefit paid equals the total amount of the employee contributions paid by or on behalf of the member and the member does not have a surviving beneficiary, the total benefits paid as of the date of the member's death shall be subtracted from the accumulated employee contribution amount and the balance, if greater than zero (0), shall be paid to the member's estate.

E. 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.

F. 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.

G. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

SECTION 3. AMENDATORY 20 O.S. 1991, Section 1102, as last amended by Section 4, Chapter 351, O.S.L. 1994 (20 O.S. Supp. 1997, Section 1102), is amended to read as follows:

Section 1102. Any Justice or Judge of the Supreme Court, Court of Criminal Appeals, Workers' Compensation Court, Court of Appeals or District Court who serves as Justice or judge of any of said courts in the State of Oklahoma for a period of eight (8) years or longer and upon reaching or passing the age of seventy (70) years, or who serves for a period of ten (10) years or longer and upon reaching or passing the age of sixty-five (65) years, or who serves for a period of twenty (20) years or longer and upon reaching or passing the age of sixty (60) years, or whose sum of years of service and age equal or exceeds eighty (80), after completing eight (8) years of judicial service, shall be eligible to receive the retirement benefits herein provided, and, if such Justice or judge is still serving in such capacity when the above requirements are complied with, he may elect to retire and may elect whether such retirement shall become effective immediately or at a specified time within his term or at the expiration of his term, by filing a written declaration of his desire to retire with the Governor and the Court Administrator, and the Governor shall endorse his approval thereon if the conditions herein specified exist. For the purpose of Section 1101 et seq. of this ~~act~~ title, years to be credited for retirement shall be as follows: Any Justice or judge who, at the time this act was originally passed in 1968, was serving as a Justice or judge of a court that is included in the State Supernumerary Judges Act shall receive credit for retirement under this act for each year said Justice or judge has served in any court of record, and any Justice or judge who, on January 12, 1969, was not serving as a Justice or judge of a court that was included in the State Supernumerary Judges Act shall receive credit for each year he has served as a Justice or judge of a court of record, providing that he has served a period of two (2) years after assuming the office as a Justice or judge of one or more of the above-mentioned courts, and, in determining the periods of time above mentioned, a major fraction of a year shall count as a whole year. Any Justice of the Supreme Court or Judge of the Court of Criminal Appeals, Workers' Compensation Court, Court of Appeals, or District Court, who has not served as

a Justice or judge of a court of record of the State of Oklahoma or a court that was a court of record of the State of Oklahoma for a period of eight (8) years, and who on January 13, 1969, was a member of the Oklahoma Public Employees Retirement System, or the retirement system of any instrumentality of the state, or the retirement system of any county, shall not be required or permitted to become a member of, or participant in, The Uniform Retirement System for Judges and Justices provided for by Sections 1101 - 1107, inclusive, of ~~Title 20 of the Oklahoma Statutes~~ this title, unless within ninety (90) days after May 7, 1969, he elected to so become and waived or forfeited any right to which he might have been entitled under the Oklahoma Public Employees Retirement System or the retirement system of any instrumentality of the state, or of a county, except the right of a refund of his accumulated contributions without interest thereon. No Justice of the Supreme Court or Judge of the Court of Criminal Appeals, Workers' Compensation Court, Court of Appeals, or District Court, who has served as a Justice or judge of a court of record of the State of Oklahoma or a court that was a court of record of the State of Oklahoma for a period of eight (8) years or more prior to January 13, 1969, and who was a member of the Oklahoma Public Employees Retirement System or a county retirement system on January 12, 1969, and who on January 13, 1969, was a Justice or judge in any of the aforementioned courts, shall be required to make an election as to which retirement system he shall be a member of, and nothing in this act shall be construed so as to require any such Justice or judge to forfeit any right to which he might be entitled under the Oklahoma Public Employees Retirement System or county retirement system to which he may have a vested or contractual interest but he will be required to participate in The Uniform Retirement System for Judges and Justices provided by Sections 1101 - 1107, inclusive, of ~~Title 20 of the Oklahoma Statutes~~ this title. No Justice or judge of the above-mentioned courts shall be eligible to enter the Oklahoma Public Employees Retirement System after January 13, 1969. Upon approval by the Governor of an election of any Justice or judge to retire as

authorized by Section 1101 et seq. of this ~~act~~ title, the office held by such Justice or judge shall become vacated immediately or at the specified time within his term, or at the expiration of his term in accordance with the election of the judge desiring retirement status, and any such vacancy so created shall be filled in the manner provided by law and the Constitution. Provided, however, if any retired Justice or judge should be elected or appointed to any political or judicial office, his retirement compensation shall be suspended during the period of time that he holds such office and be reinstated upon his leaving such office.

SECTION 4. AMENDATORY 20 O.S. 1991, Section 1102.2, is amended to read as follows:

Section 1102.2 Any active member of the Uniform Retirement System for Justices and Judges who served in the Armed Forces of the United States, as defined in paragraph ~~(23)~~ (22) of Section 902 of Title 74 of the Oklahoma Statutes, prior to membership in the Uniform Retirement System for Justices and Judges shall be granted service credit, not to exceed five (5) years, for those periods of active military service during which the member was a war veteran. Such military service credit shall not apply to any person receiving military retirement benefits other than service-connected disability benefits established by either the military service or the Veterans Administration.

SECTION 5. AMENDATORY 20 O.S. 1991, Section 1103, is amended to read as follows:

Section 1103. Each Justice or judge who is a member of The Uniform Retirement System for Justices and Judges shall have five percent (5%) of his or her current monthly salary withheld by the State of Oklahoma and deposited in a fund in the State Treasury which is hereby created and shall be known as the Oklahoma Judicial Retirement Fund. If a Justice or judge shall elect in writing to bring his or her surviving spouse within the provisions of ~~this act~~ Section 1101 et seq. of this title extending certain benefits to his or her surviving spouse, he or she shall have eight percent (8%) of his or her current monthly salary withheld by the State of Oklahoma and deposited in said fund. If a Justice

or judge shall cease to be a Justice or judge of the above-mentioned courts, for any reason, before he or she has accumulated eight (8) years of accredited service, or dies after he or she has accumulated eight (8) years' service and having no survivor benefit, then all the contributions retained from his or her salary shall be paid to him or her or his or her named beneficiary, or his or her estate in case of no named beneficiary, and he or she shall have no further claim against the State of Oklahoma for retirement pay for his or her services to date.

Upon death of a retired judge who has no survivor benefits, there shall be paid to his or her named beneficiary, or his or her estate in case of no named beneficiary, an amount equal to the excess, if any, of his or her accumulated contributions over the sum of all retirement benefit payments made.

Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

SECTION 6. AMENDATORY 20 O.S. 1991, Section 1104, as last amended by Section 1, Chapter 323, O.S.L. 1997 (20 O.S. Supp. 1997, Section 1104), is amended to read as follows:

Section 1104. A. Each justice or judge who is a member of The Uniform Retirement System for Justices and Judges upon retirement shall be entitled to receive as retirement compensation, until changed by the Legislature, an annual amount, each monthly payment of which shall be in an amount equal to four percent (4%) of the average monthly salary received by him or her as a justice or judge based on the last three (3) years of active service multiplied by the number of total years of service ~~as a justice or judge of a court of record~~. Provided, however, that no justice or judge may receive a monthly retirement benefit in excess of seventy percent (70%) of the average monthly salary based on the last three (3) years of active service and found

applicable to such justice or judge at the time of retirement. Retirement compensation shall be payable monthly out of the State Judicial Retirement Fund by warrants prepared by the Executive Director of the Public Employees Retirement System and issued by the State Treasurer.

B. Effective July 1, 1997, each justice or judge who was a member of The Uniform Retirement System for Justices and Judges at the time of retirement who initially began receiving benefits before July 1, 1995, or their eligible surviving spouse, may elect on or before July 1, 1998, to receive as retirement compensation, prospectively only from the date of election, an annual amount, each monthly payment of which shall be in an amount equal to four percent (4%) of the average monthly salary received by the justice or judge based on the last three (3) years of active service multiplied by the number of total years of service of the justice or judge ~~of a court of record~~. Provided, however, that no justice or judge may receive a monthly retirement benefit in excess of seventy percent (70%) of the average monthly salary based on the last three (3) years of active service and found applicable to the justice or judge at the time of retirement. No surviving spouse shall receive a retirement benefit pursuant to this subsection in excess of what is allowed under this act. Retirement compensation shall be payable monthly out of the State Judicial Retirement Fund by warrants prepared by the Executive Director of the Oklahoma Public Employees Retirement System and issued by the State Treasurer.

SECTION 7. AMENDATORY 47 O.S. 1991, Section 2-306, as last amended by Section 2, Chapter 333, O.S.L. 1996 (47 O.S. Supp. 1997, Section 2-306), is amended to read as follows:

Section 2-306. A. Upon the death of a retired member or upon the death of any member prior to retirement or other termination of covered employment, a monthly pension shall be paid which shall be in an amount as provided below:

1. If the member was not retired and death occurred as the direct result of the performance of the member's duties as an officer, an amount equal to the monthly payments which would have

been received by the member under subsection C of Section 2-305 of this title, had the member been totally disabled; or

2. If the member was not retired and death occurred other than as the direct result of the performance of the member's duties as an officer, an amount equal to the monthly payments which would have been received by the member under subsection D of Section 2-305 of this title had the member been totally disabled; or

3. If said member was retired for length of service, an amount equal to the member's monthly payments; or

4. If said member was retired for total disability, an amount equal to the member's monthly payments; or

5. If said member was retired for partial disability, an amount equal to the monthly payments which would have been received by said member had the member been totally disabled.

B. The pension provided for in subsection A of this section shall be paid:

1. Except as provided in paragraph 4 of this subsection, to the surviving spouse, provided the surviving spouse was married to the member at the time of the member's death, and continuously for the thirty (30) months immediately preceding the member's death, provided a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for the employer, shall not be subject to the thirty-month marriage requirement for survivor benefits; or

2. If there is no surviving spouse or upon the death of a spouse:

a. to the person having the care and custody of any surviving child or children of said member for such time as such child or children are under the age of eighteen (18) years, or

b. to the surviving child or children between the age of eighteen (18) and twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education;

3. If there is no surviving spouse or children under the age of eighteen (18) years or under the age of twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education, to the dependent parent or parents of said member, for life; or

4. In the event a surviving spouse remarried prior to June 7, 1993, and was a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for the employer, the surviving spouse shall be eligible to receive the pension benefits provided for in subsection A of this section.

To receive the pension benefits provided for in subsection A of this section the surviving spouse falling within this paragraph shall submit a written request for such benefits to the Oklahoma Law Enforcement Retirement System. The Oklahoma Law Enforcement Retirement System shall approve requests by surviving spouses meeting the requirements of this paragraph. Upon approval by the Oklahoma Law Enforcement Retirement System, the surviving spouse shall be entitled to the pension benefits provided for in subsection A of this section beginning from the date of approval forward. Pension benefits provided to surviving spouses falling within this paragraph shall not apply to alter any amount of pension benefits paid or due prior to the Oklahoma Law Enforcement Retirement System's approval of the remarried surviving spouse's written request for benefits.

No surviving spouse shall receive benefits from this section, Section 49-113 of Title 11 of the Oklahoma Statutes, or Section 50-117 of Title 11 of the Oklahoma Statutes as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

C. In addition to the pension above provided for, if said member leaves a surviving spouse and one or more children under the age of eighteen (18) years or under the age of twenty-two (22) years if the child is enrolled full time in and is regularly

attending a public or private school or any institution of higher education, One Hundred Dollars ($100.00) a month shall be paid from said Fund for the support of each surviving child to the person having the care and custody of such children during such time as said spouse remains alive and until each child reaches the age of eighteen (18) years or reaches the age of twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education.

D. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

SECTION 8. 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 or she 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 or she was elected or appointed, pleads guilty or nolo contendere to a felony or any offense involving a violation of his or her official oath in a state or federal court of competent jurisdiction, he or she 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 or her oath of office shall forfeit all benefits of said office or employment, including, but not limited to, retirement benefits provided by law, however, the forfeiture of retirement benefits shall not occur if any such officer or employee received a deferred sentence, but retirement benefits shall not commence prior to completion of the deferred sentence; 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, to any such officer or employee suspended from or forfeiting his or her 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 9. AMENDATORY 70 O.S. 1991, Section 17-105, as last amended by Section 23, Chapter 384, O.S.L. 1997 (70 O.S. Supp. 1997, Section 17-105), is amended to read as follows:

Section 17-105. (1) (a) Any member who has attained age fifty-five (55) or who has completed thirty (30) years of creditable service, as defined in Section 17-101 of this title, or for any person who initially became a member prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992, whose age and number of years of creditable service total eighty (80) may be retired upon filing a written application for such retirement. Such a 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. Any person who became a member after June 30, 1992, whose age and number of years of creditable service total ninety (90) may be retired upon filing a written application for such retirement. The application shall be filed on the form provided by the Board of Trustees for this purpose, not less than thirty (30) days nor more than ninety (90) days before the date of retirement.

(b) An individual who becomes a member of the Teachers' Retirement System after July 1, 1967, shall be employed by the public schools, state colleges or universities of Oklahoma for a minimum of ten (10) years and be a contributing member of the Teachers' Retirement System of Oklahoma for a minimum of ten (10) years to qualify for monthly retirement benefits from the Teachers' Retirement System of Oklahoma. Provided, however, any individual who was a contributing member of the System for a minimum of ten (10) years and withdrew such individual's accumulated contributions upon termination of employment may repay to the System such contributions with interest as determined by the Board for the purpose of receiving monthly retirement benefits from the System. All repayments made as provided for in this subsection shall be made prior to September 1, 1986.

(c) Any member with ten (10) or more years of Oklahoma teaching service and whose accumulated contributions during such period have not been withdrawn shall be given an indefinite extension of membership beginning with the sixth year following his or her last contributing membership and shall become eligible to apply for retirement and be retired upon attaining age fifty-five (55).

(d) Members currently teaching in the public schools of Oklahoma past the fiscal year during which age seventy (70) was attained and who have not retired shall be granted the privilege of making up the five percent (5%) contributions, plus interest, for the years taught after age seventy (70). Such member shall be given an indefinite extension of membership and be eligible to retire upon the filing of proper application for retirement as hereinbefore provided.

(2) An unclassified optional member who has retired or who retires at sixty-two (62) years of age or older or whose retirement is because of disability shall have his or her minimum retirement benefits calculated on an average salary of Five Thousand Three Hundred Fifty Dollars ($5,350.00) or, if a larger monthly allowance would result, an amount arrived at pursuant to application of the formula prescribed herein.

(3) No member shall receive a lesser retirement benefit than he or she would have received under the law in effect at the time he or she retired. Any individual under the Teachers' Retirement System, who through error in stating the title of the position which he or she held, may, at the discretion of the Board of Trustees, be changed from the nonclassified optional group to the classified group for the purpose of calculating retirement benefits.

Any individual regardless of residence, who has a minimum of ten (10) years of teaching in Oklahoma schools prior to July 1, 1943, or who taught in Oklahoma schools prior to 1934 and thereafter taught a minimum of ten (10) years and who does not qualify under the present retirement System, or who has a minimum of thirty (30) years of teaching in Oklahoma schools and has

reached seventy (70) years of age prior to July 1, 1984, and is not otherwise eligible to receive any benefits from the retirement system shall receive a minimum of One Hundred Fifty Dollars ($150.00) per month in retirement benefits from the Teachers' Retirement System of Oklahoma plus any general increase in benefits for annuitants as may be provided hereafter by the Legislature. Each individual must apply to the Teachers' Retirement System for such benefit and provide evidence to the Teachers' Retirement System that the service was actually rendered. The surviving spouse of any person who made application for the benefit provided for by this paragraph during his or her lifetime but did not receive said benefit may submit an application to the System for payment of said benefit for those months during the lifetime of the deceased person that he or she was eligible for but did not receive the benefit. Upon approval of the application by the Board of Trustees, the benefit shall be paid to the surviving spouse in one lump sum.

(4) The value of each year of prior service is the total monthly retirement benefit divided by the number of years of creditable service.

(5) Upon application of a member who is actively engaged in teaching in Oklahoma or his or her employer, any member who has been a contributing member for ten (10) years may be retired by the Board of Trustees not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, on a disability retirement allowance, provided that it is found by the Board of Trustees after medical examination of such member by a duly qualified physician that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired. The Board of Trustees shall give due consideration to the conclusions and recommendations in the certified written report of the Medical Board of the Teachers' Retirement System regarding the disability application of such member. If a member is determined to be eligible for disability benefits pursuant to the Social Security System, then such

determination shall entitle the member to the authorized disability retirement allowance provided by law. For members who are not eligible for disability benefits pursuant to the Social Security System, the Board of Trustees shall apply the same standard for which provision is made in the first two sentences of this subsection for determining the eligibility of a person for such disability benefits in making a determination of eligibility for disability benefits as authorized by this subsection.

(6) (a) A member who at the time of retirement has been found to be permanently physically or mentally incapacitated to teach school shall receive a minimum monthly retirement payment for life or until such time as the member may be found to be recovered to the point where he or she may return to teaching. Any member retired before ~~the effective date of this act~~ July 1, 1992 shall be eligible to receive the monthly retirement allowance herein provided, but such payment shall not begin until the first payment due him or her after ~~the effective date of this act~~ July 1, 1992, and shall not be retroactive. The Board of Trustees is empowered to make such rules and regulations as it considers proper to preserve equity in retirements under this provision.

(b) A member who has qualified for retirement benefits under disability retirement shall have the total monthly payment deducted from his or her accumulated contributions plus interest earned and any money remaining in the member's account after the above deductions at the death of the member shall be paid in a lump sum to the beneficiary or to the estate of the member. Provided, if the deceased disabled member had thirty (30) years or more of creditable service and the death occurred after June 30, 1981, and death occurred prior to the disabled member receiving twelve monthly retirement payments, a surviving spouse may elect to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 Plan of Retirement provided for in subsection (8) of this section in lieu of the death benefit provided for in this subsection and in subsection (12) of this section.

(c) Once each year the Board of Trustees may require any disabled annuitant who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence for said disabled annuitant or other place mutually agreed upon by a physician or physicians designated by the Board of Trustees. Should any disabled annuitant who has not yet attained the age of sixty (60) years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees his or her allowance may be discontinued until he or she submits to such examination.

(d) Should the Medical Board report and certify to the Board of Trustees that such disabled annuitant is engaged in or is able to engage in a gainful occupation paying more than the difference between his or her retirement allowance and the average final compensation, and should the Board of Trustees concur in such report then the amount of his or her pension shall be reduced to an amount which, together with his or her retirement allowance and that amount earnable by him or her, shall equal the amount of his or her average final compensation. Should his or her earning capacity be later increased, the amount of his or her pension may be further modified, provided the new pension shall not exceed that amount of the pension originally granted nor an amount, which when added to the amount earnable by the member, together with his or her annuity, equals the amount of his or her average final compensation.

(e) Should a disabled annuitant be restored to active service, his or her disability retirement allowance shall cease and he or she shall again become a member of the Teachers' Retirement System and shall make regular contributions as required under this article. The unused portion of his or her accumulated contributions shall be reestablished to his or her credit in the Teachers' Savings Fund. Any such prior service certificates on the basis of which his or her service was computed at the time of his or her retirement shall be restored to full force and effect.

(7) Should a member before retirement under ~~this act~~ Section 1-101 et seq. of this title make application for withdrawal duly filed with the Board of Trustees and approved by it, not earlier than four (4) months after the date of termination of such service as a teacher, the contribution standing to the credit of his or her individual account in the Teachers' Savings Fund shall be paid to him or her or, in the event of his or her death before retirement, shall be paid to such person or persons as he or she shall have nominated by written designation, duly executed and filed with the Board of Trustees; provided, however, if there be no designated beneficiary surviving upon such death, such contributions shall be paid to his or her administrators, executors, or assigns, together with interest as hereinafter provided. In lieu of a lump-sum settlement at the death of the member, the amount of money the member has on deposit in the Teachers' Savings Fund and the money the member has on deposit in the Teachers' Deposit Fund may be paid in monthly payments to a designated beneficiary, who must be the spouse, under the Maximum or Option 1 Plan of Retirement providing the monthly payment shall be not less than Twenty-five Dollars ($25.00) per month. The monthly payment shall be the actuarial equivalent of the amount becoming due at the member's death based on the sex of the spouse and the age the spouse has attained at the last birthday prior to the member's death. Provided further, if there be no designated beneficiary surviving upon such death, and the contributions standing to the credit of such member do not exceed Two Hundred Dollars ($200.00), no part of such contributions shall be subject to the payment of any expense of the last illness or funeral of the deceased member or any expense of administration of the estate of such deceased and the Board of Trustees, upon satisfactory proof of the death of such member and of the name or names of the person or persons who would be entitled to receive such contributions under the laws of descent and distribution of the state, may authorize the payment of accumulated contributions to such person or persons. A member terminating his or her membership by withdrawal shall have the interest computed at a

rate of interest determined by the Board of Trustees and paid to him or her subject to the following schedule:

(a) If termination occurs within seven (7) years from the date membership began, no part of such interest accumulations shall be paid.

(b) With at least seven (7) but less than sixteen (16) years of membership, fifty percent (50%) of such interest accumulations shall be paid.

(c) With at least sixteen (16) but less than twenty-one (21) years of membership, sixty percent (60%) of such interest accumulations shall be paid.

(d) With at least twenty-one (21) but less than twenty-six (26) years of membership, seventy-five percent (75%) of such interest accumulations shall be paid.

(e) With at least twenty-six (26) years of membership, ninety percent (90%) of such interest accumulations shall be paid.

In case of death of an active member, the interest shall be calculated and restored to the member's account and paid to his or her beneficiary.

(8) (a) In lieu of his or her retirement allowance payable throughout life for such an amount as determined under this section, the member may select a retirement allowance for a reduced amount payable under any of the following options the present value of which is the actuarial equivalent thereof.

(b) A member may select the option under which he or she desires to retire at the end of the school year in which he or she attains age seventy (70) and said option shall be binding and cannot be changed. Provided further that if a member retires before age seventy (70), no election of an option shall be effective in case an annuitant dies before the first payment due under such option has been received.

(c) The first payment of any benefit selected shall be made on the first day of the month following approval of the retirement by the Board of Trustees. If the named designated beneficiary under Option 2 or 3 dies at any time after the member's retirement date, but before the death of the member, the member shall return

to the retirement benefit, including any post retirement benefit increases the member would have received had the member not selected Option 2 or 3 of this subsection. The benefit shall be determined at the date of death of the designated beneficiary or July 1, 1994, whichever is later. This increase shall become effective the first day of the month following the date of death of the designated beneficiary or July 1, 1994, whichever is later, and shall be payable for the member's remaining lifetime. The member shall notify the Teachers' Retirement System of Oklahoma of the death of the designated beneficiary in writing. In the absence of said written notice being filed by the member notifying the Teachers' Retirement System of Oklahoma of the death of the designated beneficiary within six (6) months of the date of death, nothing in this subsection shall require the Teachers' Retirement System of Oklahoma to pay more than six (6) months of retrospective benefits increase.

Option 1. If he or she dies before he or she has received in annuity payments the present value of his or her annuity as it was at the time of his or her retirement, the balance shall be paid to his or her legal representatives or to such person as he or she shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his or her retirement; or

Option 2. A member takes a reduced retirement allowance for life. Upon the death of the member the payments shall continue to the member's designated beneficiary, who must be a spouse, for the life of the beneficiary. The written designation of the beneficiary, who must be a spouse, must be duly acknowledged and filed with the Board of Trustees at the time of the member's retirement; or

Option 3. A member receives a reduced retirement allowance for life. Upon the death of the member one-half (1/2) of the retirement allowance paid the member shall be continued throughout the life of the designated beneficiary, who must be a spouse. A written designation of a beneficiary must be duly acknowledged and

filed with the Board of Trustees at the time of the member's retirement; or

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he or she shall nominate, provided such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his or her retirement allowance and shall be approved by the Board of Trustees; or

Option 5. A member receives a reduced retirement allowance for life. If the member dies within twenty-five (25) years from the date of commencement of the retirement payments, such payments shall be continued to the beneficiary of the member during the balance of the twenty-five-year period. The written designation of the beneficiary, who must be a spouse, shall be duly acknowledged and filed with the Board of Trustees at the time of the member's retirement.

(9) The governing board of any "public school", as that term is defined in Section 17-101 of this title, is hereby authorized and empowered to pay additional retirement allowances or compensation to any person who was in the employ of such public school for not less than seven (7) school years preceding the date of his or her retirement. Payments so made shall be a proper charge against the current appropriation or appropriations of any such public school for salaries for the fiscal year in which such payments are made. Such payments shall be made in regular monthly installments in such amounts as the governing board of any such public school, in its judgment, shall determine to be reasonable and appropriate in view of the length and type of service rendered by any such person to such public school by which such person was employed at the time of retirement. All such additional payments shall be uniform, based upon the length of service and the type of services performed, to persons formerly employed by such public school who have retired or been retired in accordance with the provisions of ~~this act~~ Section 1-101 et seq. of this title.

The governing board of any such public school may adopt rules and regulations of general application outlining the terms and conditions under which such additional retirement benefits shall be paid, and all decisions of such board shall be final.

(10) In addition to the teachers' retirement herein provided, teachers may voluntarily avail themselves of the Federal Social Security Program upon a district basis.

(11) For those members who joined the System prior to July 1, 1992, upon the death of an in-service member, the System shall pay to the designated beneficiary of the member or, if there is no designated beneficiary or if the designated beneficiary predeceases the member, to the estate of the member, the sum of Eighteen Thousand Dollars ($18,000.00) as a death benefit. Provided, if the deceased member had ten (10) years or more of creditable service and the death occurred after February 1, 1985, a surviving spouse may elect to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 plan of retirement in lieu of the death benefit provided for in this subsection. Provided further, if the death occurred after June 1, 1987, and the surviving spouse elects to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 plan of retirement, the retirement benefit shall be determined using the average annual salary of the deceased member during any three (3) of the last five (5) years of participating service, but not to exceed Forty Thousand Dollars ($40,000.00).

(12) Upon the death of an annuitant who has contributed to the System, the retirement system shall pay to the designated beneficiary of the annuitant or, if there is no designated beneficiary or if the designated beneficiary predeceases the annuitant, to the estate of the annuitant, the sum of Five Thousand Dollars ($5,000.00) as a death benefit.

(13) Upon the death of a member who dies leaving no living beneficiary or having designated his <u>or her</u> estate as beneficiary, the System may pay any applicable death benefit, unpaid contributions, or unpaid benefit which may be subject to probate,

in an amount of Five Thousand Dollars ($5,000.00) or less, without the intervention of the probate court or probate procedure pursuant to Section 1 et seq. of Title 58 of the Oklahoma Statutes.

(a) Before any applicable probate procedure may be waived, the System must be in receipt of the member's proof of death and the following documents from those persons claiming to be the legal heirs of the deceased member:

1. The member's valid last will and testament;
2. An affidavit or affidavits of heirship which must state:
    a. the names and signatures of all claiming heirs to the deceased member's estate including the claiming heirs' names, relationship to the deceased, current addresses and current telephone numbers,
    b. a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,
    c. a statement that the value of the deceased member's entire estate is subject to probate, and that the estate wherever located, less liens and encumbrances, does not exceed Five Thousand Dollars ($5,000.00), including the payment of benefits or unpaid contributions from the System as authorized by this subsection,
    d. a description of the personal property claimed, (i.e., death benefit or unpaid contributions or both) together with a statement that such personal property is subject to probate,
    e. a statement by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System, and that the heir has been notified of, is aware of and consents to the identified claims of all the

other claiming heirs of the deceased member pending with the System;

3. A written agreement or agreements signed by all claiming heirs of the deceased member which provides that the claiming heirs release, discharge and hold harmless the System from any and all liability, obligations and costs which it may incur as a result of making a payment to any of the deceased member's heirs;

4. A corroborating affidavit from an individual other than a claiming heir, who was familiar with the affairs of the deceased member;

5. Proof that all debts of the deceased member, including payment of last sickness, hospital, medical, death, funeral and burial expenses have been paid or provided for.

(b) The Executive Director of the System shall retain complete discretion in determining which requests for probate waiver may be granted or denied, for any reason. Should the System have any question as to the validity of any document presented by the claiming heirs, or as to any statement or assertion contained therein, the probate requirement provided for in Section 1 et seq. of Title 58 of the Oklahoma Statutes, shall not be waived.

(c) After paying any death benefits or unpaid contributions to any claiming heirs as provided pursuant to this subsection, the System is discharged and released from any and all liability, obligation and costs to the same extent as if the System had dealt with a personal representative of the deceased member. The System is not required to inquire into the truth of any matter specified in this subsection or into the payment of any estate tax liability.

(14) Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the

member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

SECTION 10. AMENDATORY 74 O.S. 1991, Section 902, as last amended by Section 5 of Enrolled Senate Bill No. 788 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 902. As used in ~~this act~~ Section 901 et seq. of this title:

(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~~ Section 901 et seq. of this title. If there is no beneficiary living at time of member employee's death, the member's 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~~ January 1, 1988, 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~~.
For compensation for service on or after January 1, 1988, through June 30, 1994, the maximum compensation level shall be Forty Thousand Dollars ($40,000.00) per annum.

~~(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)~~ (b) 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 the member's 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. 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 a 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~~ Section 901 et seq. of this title. 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. 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 of Oklahoma 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 or she 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 or she is ineligible for this System as long as he or she 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. 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. 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 on which an eligible employer joins the System. The first entry date pursuant to ~~this act~~ Section 901 et seq. of this title shall be January 1, 1964;

(16) "Executive Director" means the managing officer of the System employed by the Board under ~~this act~~ Section 901 et seq. of this title;

(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,~~ during the highest three (3) of the last ten (10) years of participating service immediately preceding retirement or termination of employment. Provided, no member shall retire with a final average compensation ~~for service rendered prior to July 1, 1994, in excess of Forty Thousand Dollars ($40,000.00); and 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 compensation ~~salary in excess of Twenty-five Thousand Dollars ($25,000.00). In~~

~~addition to those persons retiring on or after the effective date of this act, the provisions of this paragraph shall be applicable to those persons retiring on or after July 1, 1994, but not later than July 1, 1995, unless such application would result in a reduction of retirement benefits for those persons,~~

~~(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. In addition to those persons retiring on or after the effective date of this act, the provisions of this paragraph shall be applicable to those persons retiring on or after July 1, 1994, but not later than July 1, 1995, unless such application would result in a reduction of retirement benefits for those persons, and~~

~~(c) the System shall, prior to January 1, 1996, pay to members retiring on or after July 1, 1994, and prior to July 1, 1995, any retroactive increase in benefits due pursuant to this paragraph~~;

(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~~ Section 901 et seq. of this title;

(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) ~~(a)~~ "Military service" means service in the Armed Forces of the United States in time of war or national emergency by honorably discharged, not to exceed five (5) years for combined participating and/or prior service, for persons who served as follows:

1. in the Armed Forces of the United States at any time during the period from April 6, 1917, to November 11, 1918, both dates inclusive,
2. in the Armed Forces of the United States as members of the 45th Division at any time during the period from September 16, 1940, to December 7, 1941, both dates inclusive,
3. in the Armed Forces of the United States at any time during the period from December 7, 1941, to December 31, 1946, both dates inclusive,
4. in the Armed Forces of the United States at any time during the period from June 27, 1950, to January 31, 1955, both dates inclusive,
5. for a period of ninety (90) days or more, unless discharged from active duty for a service-connected disability, in the Armed Forces of the United States during the period of time in which the United States participated in a war, campaign or battle, but excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability,
6. in the Armed Forces of the United States at any time during the period which began on:
   a. February 28, 1961, and ended on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period, and

b. August 5, 1964, and ended on May 7, 1975, in all other cases,

except that such period shall be deemed to have ended on December 31, 1976, when determining eligibility for education and training benefits; or

7. in the Armed Forces of the United States on or after August 1, 1990, and ended on December 31, 1991, excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability,

(b) an eligible member under this paragraph shall include only those persons who shall have served during the times or in the areas prescribed in this paragraph, and those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict who served prior to August 5, 1964;

(23) "Normal retirement date" means the date on which a member may retire with full retirement benefits as provided in ~~this act~~ Section 901 et seq. of this title, 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~~ Section 901 et seq. of this title, 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, or

(e) for any member who was continuously employed by an entity or institution within The Oklahoma State System of Higher Education and whose initial employment with such entity or institution was prior to July 1, 1992, and who without a break in service of more than thirty (30) days became employed by an employer participating in the Oklahoma Public Employees Retirement System, the first day of the month coinciding with or following the date at which the sum of the member's age and number of years of credited service total eighty (80);

(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 the member's entry date for which credit is granted a member under ~~this act~~ Section 901 et seq. of this title;

(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~~ Section 901 et seq. of this title 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 11. AMENDATORY Section 2, Chapter 315, O.S.L. 1997 (74 O.S. Supp. 1997, Section 910.3), is amended to read as follows:

Section 910.3 A. Effective July 1, 1997, the Oklahoma Housing Finance ~~Authority~~ Agency shall be an eligible

participating employer in the Oklahoma Public Employees Retirement System. Employees hired after this date shall participate in the Oklahoma Public Employees Retirement System. Employees participating in the Oklahoma Housing Finance Agency benefits plan hired prior to July 1, 1997, ~~shall make one of the following elections on or before January 1, 1998:~~

~~1. Elect~~ may elect to continue the current benefits plan provided by the Oklahoma Housing Finance Agency and not to become a member of the Oklahoma Public Employees Retirement System~~;~~ or at any time while an active employee of the Oklahoma Housing Finance Agency may:

~~2.~~ 1. Elect to cease accruing benefits under the current benefits plan provided by the Oklahoma Housing Finance Agency and to purchase service credit in the Oklahoma Public Employees Retirement System in an amount equal to the time employed with the Oklahoma Housing Finance Agency prior to the time of election and at an actuarial rate pursuant to Section 913.5 of ~~Title 74 of the Oklahoma Statutes~~ this title;

~~3.~~ 2. Elect to cease accruing benefits under the current benefits plan provided by the Oklahoma Housing Finance Agency and to purchase a prorated amount of service credit in the Oklahoma Public Employees Retirement System based on the amount received from the current benefits plan and pursuant to Section 913.5 of ~~Title 74 of the Oklahoma Statutes~~ this title; or

~~4.~~ 3. Elect to cease accruing benefits under the current benefits plan provided by the Oklahoma Housing Finance Agency, not purchase any service credit in the Oklahoma Public Employees Retirement System, and to start a new retirement under the Oklahoma Public Employees Retirement System.

B. Such employees hired prior to July 1, 1997, who elect to participate in the Oklahoma Public Employees Retirement System shall commence accruing benefits in the Oklahoma Public Employees Retirement System after the date of election and as established by the Oklahoma Public Employees Retirement System Board of Trustees. The employees hired prior to July 1, 1997, electing to purchase service credit authorized by this section shall have all such

service credit canceled which is not utilized in purchasing credit in the Oklahoma Public Employees Retirement System. The purchase of service credit as provided in this section shall only be available upon the election of the employee. The election shall be made in writing, filed with the Oklahoma Housing Finance Agency and the Oklahoma Public Employees Retirement System prior to receiving the credit purchased, and shall be irrevocable. The Oklahoma Housing Finance Agency shall transfer the amounts from its benefits plan to the Oklahoma Public Employees Retirement System for those employees who elect to purchase service credit in the Oklahoma Public Employees Retirement System.

C. Employees hired prior to July 1, 1997, and who either elected to purchase service credit in the Oklahoma Public Employees Retirement System or now desire to purchase service credit in the Oklahoma Public Employees Retirement System as provided in this section, shall be allowed up to eight (8) years from the date of election to pay for such service credit. Payments may be made through payroll deductions if requested by an employee. The Oklahoma Housing Finance Agency shall provide to the Oklahoma Public Employees Retirement System all information and documents requested from the System concerning the status of the retirement plan offered by the Authority to its employees.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 910.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

Any active member, as of July 1, 1998, whose compensation for service exceeded Twenty-five Thousand Dollars ($25,000.00) per annum prior to July 1, 1994, and who, prior to July 1, 1998, had voluntarily elected to increase the maximum compensation level pursuant to statutes in effect at that time, shall be refunded or have transferred, pursuant to this section and the procedures established by the Board, the employee contributions made on compensation for service which is in excess of Twenty-five Thousand Dollars ($25,000.00) per annum prior to July 1, 1994. It is the intent of the Legislature that the excess contributions

which were paid on a pre-tax basis and considered as picked up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986 shall be transferred directly to an account established for the employee in the Oklahoma State Employees Deferred Savings Incentive Plan, and the excess contributions which were paid on an after-tax basis and not considered picked up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986 shall be refunded directly to the employee. The provisions for refund or transfer contained in this section shall not take effect until the Board receives official written notice that this distribution satisfies the tax qualification requirements for governmental plans applicable to such refunds or transfers as specified in the Internal Revenue Code of 1986, as amended from time to time and as applicable to governmental plans and the relevant regulatory provisions and guidance related thereto.

SECTION 13. AMENDATORY 74 O.S. 1991, Section 913, as last amended by Section 1, Chapter 255, O.S.L. 1997 (74 O.S. Supp. 1997, Section 913), is amended to read as follows:

Section 913. A. Prior service shall be credited as follows:

1. A member shall receive full credit for employment with any participating employer prior to the entry date of his or her employer whether or not continuous and whether or not he or she was employed with a participating employer on such entry date, provided that any member who has retired before the passage of Section 901 et seq. of Title 74 of the Oklahoma Statutes, shall not receive retirement benefits retroactively for such prior service. Provided, that at such time that an employer becomes a participating employer on or after January 1, 1965, and before January 1, 1975, each member and each retirant, upon making proper written application therefor, shall receive prior service credit for service with such employer in the same manner as if such participating employer had been a participating employer on the date first eligible to become a participating employer; and increased benefits attributable to such increased prior service credit shall commence with the next monthly benefit payment due

following receipt and approval of such application by the Board of Trustees. No prior service shall be granted, however, for periods of service in which the employee made contributions which he or she subsequently withdrew, unless he or she has complied with the provisions of subsection (5) of Section 917 of this title. The burden of proof regarding prior service shall be with the member and shall be documented in such manner as the Board may direct;

2. Any member who was employed in an institution of higher learning by a State Board of Regents or who was employed by an Oklahoma school district prior to July 1, 1943, may receive prior service credit under this act for the period of time they were so employed;

3. Any member who served in the Armed Forces of the United States, as defined in paragraph 22 of Section 902 of this title, prior to membership in the Oklahoma Public Employees Retirement System shall be granted prior service credit, not to exceed five (5) years, for those periods of active military service during which he or she was a war veteran. Such prior military service credit shall not apply to any person receiving military retirement benefits other than service-connected disability benefits established by either the military service or the Veterans Administration;

4. An elective state, county, city or town official who is ineligible for membership as a result of any applicable state law or constitutional provision making him or her ineligible solely because of his or her being such an official at the time of his or her eligibility for membership at the time his or her employer becomes a participating employer shall nevertheless not forfeit the prior service credit to which he or she would be entitled except for such ineligibility, provided that he or she either:

a. becomes an employee of a participating employer within four (4) calendar months of the expiration of his or her term of office current at the time of his or her eligibility except for his or her being an elective state or county official, or

b. within a period of four (4) years after the expiration of his or her term of office current at the time of his or her eligibility except for his or her being an elective state or county official, is elected as a state or county official and thereupon becomes a member of the System, or

c. has completed ten (10) years of credited service as of the date of his or her eligibility for membership except for his or her being an elective state or county official;

5. Beginning July 1, 1965, all employees of the Department of Human Services shall participate in the Oklahoma Public Employees Retirement System to the same extent as other employees of participating employers in such System. Provided, that any employee performing teaching services in the Oklahoma School for the Deaf or the Oklahoma School for the Blind may elect to participate in the Teachers' Retirement System of Oklahoma in lieu of the Oklahoma Public Employees Retirement System; and any other employee at each such institution or any other institution under the jurisdiction of the Oklahoma Department of Human Services, participating in the Teachers' Retirement System of Oklahoma, may elect to continue to participate in such system in lieu of the Oklahoma Public Employees Retirement System. All employees who shall have participated in the Teachers' Retirement System of Oklahoma and not continuing therein shall have the right to withdraw their membership from the Teachers' Retirement System of Oklahoma on the same terms as other members withdrawing from such System before retirement. Provided, all persons employed at the Oklahoma School for the Blind and Oklahoma School for the Deaf on June 30, 1965, who became subject to the Oklahoma Public Employees Retirement System, on July 1, 1965, shall receive credit for prior service and be eligible for participation, regardless of age;

6. A member employed as a temporary employee by the Legislative Service Bureau or its predecessors, the State Senate or the House of Representatives for the full duration of a regular legislative session prior to the member's eligibility for

membership in the System shall receive six (6) months of prior service credit for each such full regular legislative session if the employee is employed by the Legislative Service Bureau or its predecessors, the State Senate or the House of Representatives as either a full-time or temporary employee for a minimum of six (6) full regular legislative sessions beginning January 1, 1983. 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;

7. A member of the System shall receive prior service credit for any years of service after January 1, 1975, the member had with a participating employer if the member is not receiving or eligible to receive such prior service credit for the same time in any other state or county retirement system authorized by law. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

8. Any member who is a state employee and receives temporary total disability benefits during the period of absence with a participating employer due to a work-related injury or illness incurred while engaged in a governmental function for said participating employer pursuant to the Workers' Compensation Act shall receive credit for participating service during said period of absence subject to the following requirements:

a. the member was employed by the participating employer immediately prior to and during the period of absence,

b. the member must notify the System in writing not later than four (4) months after the member's return to his or her job duties with the participating employer, or termination of employment with the participating employer, or termination of the temporary total disability benefits, whichever is

earlier, of the member's desire to receive participating service credit for the period of absence,

c. the participating employer must certify to the System in writing the dates during which temporary total disability benefits payments were paid to the member, and

d. the member and the participating employer shall each pay their respective contributions required for the period of absence without interest within sixty (60) days of invoicing by the System, or with interest of seven and one-half percent (7 1/2%) compounded annually if paid after said sixty (60) days.

B. Participating service shall be credited as follows:

1. A member shall receive credit for participating service with a participating employer in accordance with the rules and regulations established by the Board; provided, however, that a member who is not a full-time employee shall receive prorated credit for actual hours worked;

2. Leaves of absence shall not count as a break in continuous employment provided the member leaves his or her accumulated contribution on deposit with the fund; however, the leaves of absence shall not be credited except that involuntary furloughs established by Office of Personnel Management rules shall be credited;

3. Any member who has served in the Armed Forces of the United States, as defined in paragraph 22 of Section 902 of this title, shall be granted participating service for those periods of active military service during which he or she was a war veteran provided this service is immediately preceded by a period of employment with a participating employer and is followed by return to employment as an employee with the same or another participating employer within ninety (90) days immediately following discharge from such military service provided the member leaves his or her accumulated contributions on deposit with the fund, provided, further such military service credit shall not

apply to any person receiving military retirement benefits other than service-connected disability benefits established by either the military service or the Veterans Administration;

4. A period of total disability under the System immediately followed by employment with a participating employer, shall not count as a break in continuous employment; provided, that such periods while not employed shall not be credited except that involuntary furloughs established by Office of Personnel Management Rule 6.13, shall be credited;

5. Termination of employment with a participating employer followed by employment with the same or another participating employer within four (4) calendar months shall not constitute a break in continuous employment; provided, that such period while not employed shall not be credited as participating service;

6. Provided, however, that all employee contributions required by this act made by employees prior to June 30, 1977, will entitle the employee to additional years of participating service in accordance with the following schedule.

Employee accumulated contributions:

More than $1.00 up to $500 = 1 year participating service

More than $500 up to $1,000 = 2 years participating service

More than $1,000 up to $1,500 = 3 years participating service

More than $1,500 up to $2,000 = 4 years participating service

More than $2,000 = 5 years participating service

In no event shall the employee be entitled to more than five (5) additional years of participating service as provided hereunder.

Provided further, that upon termination of employment prior to retirement, the accumulated contributions will be credited as above indicated to establish a vested benefit if so elected by any such employee;

7. The total participating service credit of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred thirty (130) days of unused sick leave accumulated subsequent to August 1, 1959, during the member's employment with any participating employer. Such credit shall be added in terms of whole months. Twenty (20) days of

unused sick leave shall equal one (1) month for purposes of participating service credit. If unused sick leave entitles a member to an additional year of service credit, the member's employer shall reimburse the System for the cost of funding the additional reserve. Each participating employer shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this paragraph. This paragraph shall apply to members retiring or vesting on or after July 1, 1984.

C. In determining the number of years of credited service, a fractional year of six (6) months or more shall be considered as one (1) year, and less than six (6) months shall be disregarded.

D. 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 Teachers' Retirement System of Oklahoma, 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 shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

E. A member may receive credit for those years of service accumulated by the member as an elected official if the member is not receiving or eligible to receive retirement credit or benefits from said service in any public retirement system. Prior to January 1, 1991, to receive the service credit, the member shall pay to the Board for each year of service purchased pursuant to this subsection a sum equal to the employee and employer contribution rate that would have been applicable to the member as determined by the Board and interest of not to exceed five percent (5%), and effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

F. 1. An active member of the Oklahoma Public Employees Retirement System may receive credit for those years of service accumulated by the member while a member of the Teachers' Retirement System of Oklahoma if:

a. the member is an active member of the Oklahoma Public Employees Retirement System, and

b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer said retirement credit. The notice shall include a list of the years to be transferred, and

c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection who are receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system shall have all service credit with the Teachers' Retirement System of Oklahoma canceled which is not transferred to the Oklahoma Public Employees Retirement System or used as a cash offset in such a transfer pursuant to subparagraph d of paragraph 2 of this subsection. Service credit transferred to the Teachers' Retirement System of Oklahoma under this subsection shall also be canceled with the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the "sending system" shall mean the Teachers' Retirement System of Oklahoma. The "receiving system" shall mean the Oklahoma Public Employees Retirement System.

a. Within thirty (30) days notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules and regulations:

(1) for members who have vested with the sending system, determine the present value of the member's earned benefits attributable to the years of service sought to be transferred, discounted according to the member's age at the time of transfer and computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation but shall not make any projections regarding future salary. For vested employees the sending system shall use the product of this calculation for purposes of determining the transfer fee to be paid by the employee under subparagraph c of this paragraph so long as it is greater than the product of the calculation in division (1) of this subparagraph, and

(2) determine the sum of the employee and employer contributions applicable to the years of service sought to be transferred plus interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. For all non-vested members, and for vested members if the product of this calculation is greater than the product of the calculation in division (1) of this subparagraph, the sending system shall use the product of this calculation for purposes of determining the amount to be transferred by the sending system under subparagraph c of this paragraph and any

transfer fee to be paid by the members under subparagraph d of this paragraph.

b. Within thirty (30) days notification of an intent to transfer is received by the receiving system, the receiving system shall determine, according to the system's own rules and regulations, the present value of the member's incremental projected benefits discounted according to the member's age at the time of the transfer. Incremental projected benefits shall be the difference between the projected benefit said member would receive without transferring the service credit and the projected benefit after transfer of service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest, salary projections and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is received by the sending system, transfer to the receiving system the amount determined in subparagraph a of this paragraph. Except, if the cost under subparagraph a of this paragraph for the same years of service to the sending system is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.

d. In order to receive the credit provided for in paragraph 1 of this subsection, if the cost of the actuarial value of the incremental benefit to the

receiving system is greater than the cost as calculated under subparagraph a of this paragraph for the same years of service to the sending system as established in subparagraphs a and b of this paragraph, the employee shall elect to:

(1) pay any difference to receive full credit for the years sought to be transferred, or

(2) receive prorated service credit for only the amount received from the Teachers' Retirement System of Oklahoma pursuant to this subsection.

Such an election shall be made in writing, filed with the System prior to receiving the credit provided for in paragraph 1 of this subsection, and shall be irrevocable.

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless

said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

4. Years of service transferred pursuant to this subsection shall be used both in determining the member's retirement benefit and in determining the years of service for retirement and/or vesting purposes. Years of service rendered as a member of the Teachers' Retirement System of Oklahoma prior to July 1, 1992, if any, shall be deemed to be years of service rendered as a member of the Oklahoma Public Employees Retirement System prior to July 1, 1992, and shall qualify such person as a member of the Oklahoma Public Employees Retirement System before July 1, 1992.

5. Notwithstanding the requirements of Section 17-104 of Title 70 of the Oklahoma Statutes, members electing to take advantage of the transfer authorized by this subsection who have withdrawn their contributions from the sending system shall remit to the sending system the amount of the accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making said election or the election shall be deemed invalid and the transfer shall be canceled. If such an election is deemed invalid and the transfer is canceled, the accumulated contribution remitted to the sending system by the member who originally withdrew their contributions shall be returned to the member. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 17-101 et seq. of Title 70 of the Oklahoma Statutes.

6. If any member fails for any reason to satisfy the requirements of this subsection, the election to transfer retirement credit shall be void and of no effect, and any retirement credited as a result of this transfer shall be canceled. If such retirement credit is canceled, the years of canceled retirement credit which were unsuccessfully transferred to the receiving system from the sending system shall be reestablished in the sending system. The member's rights and obligations regarding any retirement credit reestablished in the

sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending in accordance with Section 17-101 et seq. of Title 70 of the Oklahoma Statutes.

7. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

SECTION 14. AMENDATORY 74 O.S. 1991, Section 915, as last amended by Section 1, Chapter 129, O.S.L. 1997 (74 O.S. Supp. 1997, 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 (17) of Section 902 of this title, multiplied by the number of years of 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 (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 (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 person who becomes a member of the System on or after July 1, 1995;

~~(i)~~ a. and who had twenty (20) or more years of credited service within the System as of the member's retirement date shall be no less than Thirteen Thousand Eight Hundred Dollars ($13,800.00) per annum,

~~(ii)~~ b. and who had at least fifteen (15) but not more than nineteen (19) years of credited service within the System as of the member's retirement date shall be no less than Six Thousand Nine Hundred Dollars ($6,900.00) per annum,

~~(iii)~~ c. and who had less than fifteen (15) years of credited service within the System as of the member's retirement date shall not be eligible for any minimum amount of final average compensation and the member's final average compensation shall be the final average compensation as defined by subsection (17) of Section 902 of this title,

~~e.~~ Provided, further, 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~~ and the member's ~~final average~~ maximum compensation level 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 the maximum compensation level as provided in subsection (9) of Section 902 of this title, 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)~~ the maximum compensation level as provided in subsection (9) of Section 902 of this title, 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 (c) of subsection (1) of Section 919.1 of this title, and who does not qualify for normal retirement under subparagraph (c) of paragraph (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.

(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, or the payment of benefits pursuant to the Railroad Retirement Act of 1974, Section 231 et seq. of Title 45 of the United States Code, 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 or resulting in subsequent certification of eligibility of disability by the Railroad Retirement Board providing such certification is made by the Railroad Retirement Board 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 or the Railroad Retirement Award Notice certifying the date of entitlement for disability benefits, as issued by the Social Security Administration, Department of Health and Human Services or the Railroad Retirement Board. Disability benefits shall become effective on the date of entitlement as established by the Social Security Administration or the Railroad Retirement Board, 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 15. AMENDATORY 74 O.S. 1991, Section 917, as last amended by Section 6, Chapter 302, O.S.L. 1995 (74 O.S. Supp. 1997, Section 917), is amended to read as follows:

Section 917. (1) Upon termination of employment with a participating employer, not followed by employment with such participating employer, or another participating employer, within four (4) calendar months, the member shall be paid an amount equal to the amount of money he or she has paid into the System upon the filing of the proper application with the System.

(2) If such member has completed eight (8) years of credited service at date of termination or if the member has completed twenty (20) years of full-time-equivalent employment as a correctional officer or probation and parole officer with the Department of Corrections and is such an officer at the time of election of a vested benefit or if the member is a legislative session employee of the Legislature or if the employee is a session employee employed by the Legislative Service Bureau, four (4) years of credited service at date of termination, he may elect a vested benefit in lieu of receiving his accumulated contributions. The amount of the vested benefit shall commence at the normal retirement date and shall be paid monthly during the lifetime of the retirant with the last payment made on the last day of the month in which death occurs.

(3) Upon death before the normal or early retirement date of a member who has elected a vested benefit, his accumulated contributions shall be paid to his beneficiary unless the spouse of the deceased member is the beneficiary and elects monthly benefits as provided for in Section 918 of this title.

(4) Upon death after the normal or early retirement date of a retirant who elected a vested benefit without an option, the excess, if any, of his accumulated contributions over the sum of all payments of the vested benefit made to date of death shall be paid to his beneficiary.

(5) If a former employee, who meets the eligibility requirements for membership, returns to employment after the expiration of four (4) calendar months following the termination of his employment and the employee has withdrawn his accumulated contributions, he may pay to the System the sum of the accumulated contributions he has withdrawn plus interest of not to exceed ten

percent (10%), as determined by the Board, and shall receive the same benefits as if he had never withdrawn his contributions. No member shall be permitted to take advantage of the payback for restoration of creditable service more than one time. If a member, who has elected a vested benefit, or a reemployed member, who has not withdrawn the member's contributions, again becomes an employee of a participating employer, the period of absence shall not be counted as a break in service; however, the period of absence shall not be credited.

(6) Prior to January 1, 1991, members, who at the time of employment were ineligible for membership into the System due to their age, shall receive benefits for the period of ineligibility if the employer and employee contributions are paid the System for that ineligible period. No interest shall be paid on a payback of this type. However, effective January 1, 1991, to receive benefits, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

(7) When any error in calculation or participation coverage to a prior or current employee exists, it shall be the responsibility of the participating employer which made the error to pay the amount determined by the Board pursuant to Section 913.5 of this title. <u>This obligation of the participating employer to pay the amount due pursuant to this section shall be considered a current obligation of the employer until the amount is paid in full, regardless of the dates of the periods of service.</u>

(8) Upon application to the Board and payment as determined by the Board, a member of the System may receive service credit for those years of service that the member was eligible to receive service credit from the Teachers' Retirement System of Oklahoma. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

<u>(9) Upon the death of a retired member, the benefit payment for the month in which the retired member died shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an</u>

amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

SECTION 16. This act shall become effective July 1, 1998.

SECTION 17. 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.

46-2-3201 SJ (<time=system>)