

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 1939

By: Roberts of the House

and

Monson of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; amending 11 O.S. 1991, Sections 50-101, as last amended by Section 1, Chapter 257, O.S.L. 1999, 50-102.1, 50-104.1, 50-105.1, 50-105.4, as last amended by Section 2, Chapter 81, O.S.L. 1995, 50-106, 50-114, as last amended by Section 2, Chapter 257, O.S.L. 1999, 50-114.1, as amended by Section 3, Chapter 257, O.S.L. 1999, Section 4, Chapter 257, O.S.L. 1999, 50-124, as last amended by Section 6, Chapter 257, O.S.L. 1999, 50-132, Section 7, Chapter 352, O.S.L. 1993 (11 O.S. Supp. 1999, Sections 50-101, 50-105.4, 50-114, 50-114.1, 50-114.2, 50-124 and 50-134.1), which relate to the Oklahoma Police Pension and Retirement System; modifying provisions related to leased employees; modifying provisions related to final average salary; modifying rule regarding certain family aggregation rules; requiring retirement system assets to be held in trust; prohibiting use of assets for certain purpose; modifying provision related to travel reimbursement; modifying provision related to gifts or gratuities; modifying requirement related to selection of investment managers; authorizing System to perform certain acts necessary for qualification of System under Internal Revenue Code; providing date related to distribution of benefits; modifying provisions related to limitations pursuant to the Internal Revenue Code; providing method for computation of certain types of service pursuant to Internal Revenue Code; deleting reference to certain special election; modifying provisions related to rollover distributions; modifying provisions related to distributees; modifying provision related to offset; providing for trust character of assets; modifying process available for access to certain information; amending 47 O.S. 1991, Sections 2-300, as last amended by Section 22, Chapter 257, O.S.L. 1999, 2-303.1, as last amended by Section 4, Chapter 290, O.S.L. 1996, 2-303.3, as last amended by Section 23, Chapter 257, O.S.L. 1999, Section 25, Chapter 257, O.S.L. 1999, 2-305.4, as amended by Section 24, Chapter 257, O.S.L. 1999, 2-306, as last amended by Section 7, Chapter 419, O.S.L. 1998 (47 O.S. Supp. 1999, Sections 2-300, 2-303.1, 2-303.3, 2-305.1A, 2-

305.4 and 2-306), which relate to the Oklahoma Law Enforcement Retirement System; modifying definitions; deleting reference to certain aggregation rules; providing for assets to be held in trust for certain purposes; prohibiting use of assets for certain purposes; authorizing System to perform certain acts necessary for qualification of System under Internal Revenue Code; modifying provision related to offset; modifying provision related to computation of eligible rollover distributions; modifying references to Internal Revenue Code; modifying provisions related to certain distributees; modifying provision related to certain disability benefits with respect to limitation years; providing method for computation of certain types of service pursuant to Internal Revenue Code; deleting provisions related to certain special election pursuant to Internal Revenue Code; modifying benefit amount for certain survivors; 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 50-101, as last amended by Section 1, Chapter 257, O.S.L. 1999 (11 O.S. Supp. 1999, Section 50-101), is amended to read as follows:

Section 50-101. As used in this article:

1. "System" means the Oklahoma Police Pension and Retirement System and all predecessor municipal Police Pension and Retirement Systems;

2. "Article" means Article 50 of this title;

3. "State Board" means the Oklahoma Police Pension and Retirement Board;

4. "Local board" means the local police pension and retirement boards;

5. "Fund" means the Oklahoma Police Pension and Retirement Fund;

6. "Officer" means any duly appointed and sworn full-time officer of the regular police department of a municipality whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, enforce all laws and municipal

ordinances of this state, and any political subdivision thereof, and who is authorized to bear arms in the execution of such duties;

7. "Member" means all eligible officers of a participating municipality and any person hired by a participating municipality who is undergoing police training to become a permanent police officer of the municipality. A Effective July 1, 1987, a member does not include a "leased employee" as defined under Section 414(n)(2) of the Internal Revenue Code of 1986, as amended. ~~Any~~ Effective July 1, 1999, any individual who agrees with the ~~State Board~~ participating municipality that the individual's services are to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction;

8. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day of the month coinciding with or following the date the member completes twenty (20) years of credited service. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day of the month after the member terminates employment with more than twenty (20) years of credited service;

9. "Credited service" means the period of service used to determine the eligibility for and the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor municipal systems as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor municipal systems which was credited under the predecessor municipal systems or credited service granted by the State Board;

10. "Participating municipality" means a municipality which is making contributions to the System on behalf of its officers;

11. "Permanent total disability" means incapacity due to accidental injury or occupational disease, to earn any wages in the employment for which the member is physically suited and reasonably fitted through education, training or experience. Further, the member must be declared one hundred percent (100%) impaired as defined by the "American Medical Association's Guides to the Evaluation of Permanent Impairment" on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

12. "Permanent partial disability" means permanent disability which is less than permanent total disability as defined in this section. The member must be declared no greater than ninety-nine percent (99%) impaired as defined by the "American Medical Association's Guides to the Evaluation of Permanent Impairment" on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

13. "Beneficiary" means a member's surviving spouse or any surviving children, including biological and adopted children, at the time of the member's death. The surviving spouse must have been married to the member for the thirty (30) continuous months immediately preceding the member's death, provided a surviving spouse of a member who died while in, and as a consequence of, the performance of the member's duty for a participating municipality, shall not be subject to the thirty-month marriage requirement for survivor benefits. A surviving child of a member shall be a beneficiary until reaching eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Any child adopted by a member after the member's retirement shall be a beneficiary only if the child is adopted by

the member for the thirty (30) continuous months preceding the member's death. Any child who is adopted by a member after the member's retirement and such member dies accidentally or as a consequence of the performance of the member's duty as a police officer shall not be subject to the thirty-month adoption requirement. This definition of beneficiary shall be in addition to any other requirement set forth in this article;

14. "Executive Director" means the managing officer of the System employed by the State Board;

15. "Eligible employer" means any municipality with a municipal police department;

16. "Entry date" means the date as of which an eligible employer joins the System. The first entry date pursuant to this article shall be January 1, 1981;

17. "Final average salary" means the average paid gross salary of the member for normally scheduled hours over the highest salaried thirty (30) consecutive months of the last sixty (60) months of credited service.

- a. Gross salary shall not include payment for accumulated sick and annual leave upon termination of employment or any uniform allowances. Provided, for purposes of determining the normal disability benefit, final average salary shall be based on the member's total service if less than thirty (30) months. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective January 1, 1988, gross salary shall include any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended. Only salary on

which required contributions have been made may be used in computing the final average salary.

- b. In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 1996, the annual compensation of each "Noneligible Member" taken into account under the System shall not exceed the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) annual compensation limit. The OBRA '93 annual compensation limit is One Hundred Fifty Thousand Dollars (\$150,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The annual compensation limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which compensation is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this section, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996.
- c. For plan years beginning on or after July 1, 1996, any reference in the System to the annual compensation limit under Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall mean the OBRA '93 annual compensation limit set forth in this provision.

- d. If compensation for any prior determination period is taken into account in determining a Noneligible Member's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after July 1, 1996, the OBRA '93 annual compensation limit is One Hundred Fifty Thousand Dollars (\$150,000.00).
- e. Effective July 1, 1989, through June 30, 1997, in determining the compensation of a member for purposes of this limitation, the rules of Section 414(q)(6) of the Internal Revenue Code of 1986, as amended, shall apply, except in applying such rules, the term "family" shall include only the spouse of the member and any lineal descendants of the member who have not attained age nineteen (19) before the close of the year. If, as a result of the application of such rules, the adjusted annual compensation limitation is exceeded, then the limitation shall be prorated among the affected individuals in proportion to each such individual's compensation as determined under this section prior to the application of this limitation.
- ~~f. The family member aggregation rules set forth in the preceding paragraph shall apply only to plan years beginning prior to July 1, 1997;~~

18. "Accrued retirement benefit" means two and one-half percent (2 1/2%) of the member's final average salary multiplied by the member's years of credited service not to exceed thirty (30) years;

19. "Normal disability benefit" means two and one-half percent (2 1/2%) of the member's final average salary multiplied by twenty (20) years;

20. "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, which year shall be the calendar year; and

21. "Paid base salary" means compensation that shall include longevity, educational allowances, and normal compensation paid on a regularly scheduled pay period of which said pay period shall include holidays, annual leave and sick leave. Paid base salary shall not include overtime. This shall exclude any incremental increases due to reimbursement or payment of benefits or other allowances including but not limited to insurance premium reimbursements.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 50-102.1, is amended to read as follows:

Section 50-102.1 There is created the Oklahoma Police Pension and Retirement System which shall be a body corporate and an instrumentality of this state. The System shall be vested with the powers and duties specified in this act and such other powers as may be necessary to enable it and its officers and employees to carry out fully and effectively the purposes and intent of this article. All assets of the System shall be held in trust for the exclusive purpose of providing benefits for the members and beneficiaries of the System, including defraying reasonable expenses of administering the System, and shall not be encumbered for or diverted to any other purpose. This System shall be the responsibility of the state and not that of the participating municipalities.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 50-104.1, is amended to read as follows:

Section 50-104.1 A. The State Board shall hold regular meetings in Oklahoma City at least once each quarter, the dates,

time, and place thereof to be fixed by the State Board. The State Board shall hold a regular meeting in July of each year which meeting shall be the annual meeting at which it shall elect its Chairman. Special meetings may be called upon written call of the Chairman or by agreement of any eight (8) members of the State Board. Notice of a special meeting shall be delivered to all State Board members in person or by registered or certified United States mail not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

B. Seven (7) State Board members shall constitute a quorum for the transaction of business, but any official action of the State Board shall be based upon a favorable vote by at least seven (7) State Board members at a regular or special meeting of the State Board.

C. ~~Appointive~~ State Board members shall be reimbursed for necessary travel expenses pursuant to the State Travel Reimbursement Act.

SECTION 4. AMENDATORY 11 O.S. 1991, Section 50-105.1, is amended to read as follows:

Section 50-105.1 A. The State Board shall appoint an Executive Director. Subject to the policy direction of the State Board, the Executive Director shall be the managing and administrative officer of the System and as such shall have charge of the office, records, and supervision and direction of the employees of the System.

B. The Executive Director shall recommend to the State Board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this article, and the

policy direction of the State Board. Upon approval of the organizational plan by the State Board, the Executive Director may employ such persons as are deemed necessary to administer this article.

C. The members of the State Board, the Executive Director and the employees of the System shall not accept gifts or gratuities from an individual organization with a value in excess of ~~Fifty Dollars (\$50.00)~~ the amount per year permitted by the Ethics Commission for all state officials and employees pursuant to Rule 257:20-1-9(b) of the Ethics Commission Rules. The provisions of this section shall not be construed to prevent the members of the State Board, the Executive Director or the employees of the System from attending educational seminars, conferences, meetings or similar functions which are paid for, directly or indirectly, by more than one organization.

D. The State Board may select and retain a qualified actuary who shall serve at its pleasure as its technical advisor or consultant on matters regarding the operation of the System. The actuary may at the direction of the State Board:

1. Make an annual valuation of the liabilities and reserves of the System, and a determination of the contributions required by the System to discharge its liabilities and administrative costs under this article, and recommend to the State Board rates of employer contributions required to establish and maintain the System on an adequate reserve basis;

2. As deemed necessary by the State Board, make a general investigation of the actuarial experience under the System, including mortality, retirement, employment turnover, and interest, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and

3. Perform such other duties as may be assigned by the State Board.

E. The State Board may retain an attorney licensed to practice law in this state. The attorney shall serve at the pleasure of the State Board for such compensation as set by the State Board. The Attorney General shall furnish such legal services as may be requested by the State Board.

SECTION 5. AMENDATORY 11 O.S. 1991, Section 50-105.4, as last amended by Section 2, Chapter 81, O.S.L. 1995 (11 O.S. Supp. 1999, Section 50-105.4), is amended to read as follows:

Section 50-105.4 A. The Oklahoma Police Pension and Retirement Board shall discharge their duties with respect to the System solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of:

- a. providing benefits to participants and their beneficiaries, and
- b. defraying reasonable expenses of administering the System;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the System so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the System.

B. The State Board may procure insurance indemnifying the members of the State Board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the State Board.

C. The State Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the State Board appointed by the chairman of the State Board. The committee shall make recommendations to the full State Board on all matters related to the choice of custodians and managers of the assets of the System, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the State Board in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the State Board nor take effect without the approval of the State Board as provided by law.

D. The State Board shall retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the State Board unless the State Board deems it necessary and prudent to do otherwise to fulfill its fiduciary responsibility for the preservation of the funds assets or to avoid financial loss. Subject to the overall investment guidelines set by the State Board, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The State Board shall manage those monies not specifically allocated to the investment managers. The monies of the System allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. Funds and revenues for investment by the investment managers or the State Board shall be placed with a custodian selected by the

State Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive basis pursuant to standards set by the State Board. In compliance with the investment policy guidelines of the State Board, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the System are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the System as to the investment of the monies of the System in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the State Board for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

F. By November 1, 1988, and prior to August 1 of each year thereafter, the State Board shall develop a written investment plan for the System.

G. The State Board shall compile a quarterly financial report of all the funds of the System on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The State Board shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the State Board. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

H. After July 1 and before October 1 of each year, the State Board shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection G of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the State Board. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performances of the System for the fiscal year.

SECTION 6. AMENDATORY 11 O.S. 1991, Section 50-106, is amended to read as follows:

Section 50-106. The State Board shall, in addition to other powers herein granted, have power to:

1. Compel witnesses to attend and testify before it upon all matters connected with the operations of this article or ordinances enacted by any municipality relative to the System, and in the same manner as is or may be provided by law for the taking of testimony before notaries public; and its Chairman or any member of the State Board may administer oaths to such witnesses;

2. Provide for the payment of all its necessary expenses, and pay for actuarial, legal and such other services as shall be required to transact the business of the System;

3. Provide all rules and regulations necessary for its guidance in conformity with the provisions of this article including the physical requirements for eligibility for initial membership in the System; ~~or~~

4. For the purpose of meeting disbursements for pensions and other payments, to keep on deposit in one or more banks, trust companies or savings and loan associations, to the extent that such deposit is insured, what it considers an adequate amount of cash. No trustee or employee of the State Board shall, directly or indirectly, for himself or as an agent, in any manner use the assets of the System, except to make such current and necessary payments as are authorized by the State Board, nor shall any trustee or employee of the State Board become an endorser or surety or become in any manner an obligor for monies loaned by or borrowed from the State Board; and

5. Effective July 1, 1999, do all acts and things necessary and proper to carry out the purpose of the System and to make the least costly amendments and changes, if any, as may be necessary to qualify the System under the applicable sections of the Internal Revenue Code of 1986, as amended.

SECTION 7. AMENDATORY 11 O.S. 1991, Section 50-114, as last amended by Section 2, Chapter 257, O.S.L. 1999 (11 O.S. Supp. 1999, 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~~ Effective July 1, 1989, 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 actual 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 8. AMENDATORY 11 O.S. 1991, Section 50-114.1, as amended by Section 3, Chapter 257, O.S.L. 1999 (11 O.S. Supp. 1999, Section 50-114.1), is amended to read as follows:

Section 50-114.1 Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member in the System shall be subject to the limitations of Section 415 of the

Internal Revenue Code of 1986 in accordance with the provisions of paragraphs 1 and 2 of this section.

1. Except as provided in subparagraphs c through g of this paragraph, any accrued retirement benefit payable to a member shall not exceed the lesser of:

- a. Ninety Thousand Dollars (\$90,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of the Treasury or his delegate, effective January 1 of each calendar year and applicable to the limitation year ending with or within such calendar year.
- b. The limitations of this subparagraph shall apply only to limitation years beginning prior to January 1, 1995. One hundred percent (100%) of the average earnings of the member for the three (3) consecutive calendar years, while a member in the System, in which the member's earnings were the highest. For purposes of this subparagraph, earnings for any limitation year shall be the earned income of the member, wages, salaries, and fees for professional services, and other amounts received for personal services actually rendered in the course of employment with a participating municipality, provided such amounts are actually paid or includable in gross income during such year. Earnings shall exclude the following:
  - (1) contributions by a participating municipality to a plan of deferred compensation which are not included in the gross income of the member for the taxable year in which contributed or any distributions from a funded plan of deferred compensation, and

- (2) other amounts which received special tax benefits, or contributions made by a participating municipality, whether or not under a salary reduction agreement, towards the purchase of an annuity described in Section 403(b) of the Internal Revenue Code of 1986, as amended, whether or not the amounts are actually excludable from the gross income of the member.
- c. Except as provided in subparagraph e of this paragraph, the limitations specified in subparagraphs a and b of this paragraph shall not be applicable with respect to any member whose total annual accrued retirement benefit payable from the System is less than Ten Thousand Dollars (\$10,000.00) and who has not at any time participated in any contribution plan, within the meaning of Section 415(k) of the Internal Revenue Code of 1986, maintained by a participating municipality.
- d. If a member has less than ten (10) years of participation in the System and all predecessor municipal police pension and retirement systems, the dollar limitation otherwise applicable under subparagraph a of this paragraph shall be reduced by multiplying such limitation by a fraction, the numerator of which is the number of the years of participation in the System of the member, but never less than one (1), and the denominator of which is ten (10). This subparagraph, to the extent required by the Secretary of the Treasury, shall be applied separately to each change in benefit structure hereunder. ~~For limitation years beginning on or after January 1, 1995, this subparagraph shall not apply to~~

~~a benefit paid under the System as the result of the member becoming disabled by reason of personal injuries or sickness, or amounts received by the beneficiaries, survivors or estate of the member as the result of the death of the member.~~

- e. ~~The limitations of this subparagraph shall apply only to~~ Effective for limitation years beginning ~~prior to~~ on or after January 1, 1995. ~~If,~~ if a member has been credited with less than ten (10) years of credited service, the ~~percentage-of-average-earnings limitation otherwise applicable under subparagraph b of this paragraph and the~~ dollar amount otherwise applicable under subparagraph c of this paragraph shall be reduced by multiplying ~~each~~ such dollar amount by a fraction, the numerator of which is the number of the years of credited service of the member, but never less than one (1), and the denominator of which is ten (10).
- f. The limitations specified in this section shall apply to a straight life annuity with no ancillary benefits and to an annuity that constitutes a qualified joint and survivor annuity. If payment is in a different form, the amount thereof shall be adjusted to be the actuarial equivalent of a single life annuity and the limitations shall be applied to such adjusted amount. Such adjustment shall be based on the mortality tables and interest rates described in subdivisions (a) and (b) of division (1) of this subparagraph.
- (1) If payment begins before the member reaches age sixty-two (62) years of age, the limitation in subparagraph a of this paragraph shall be reduced on an actuarially equivalent basis; provided

however, if such payment begins after the member reaches fifty-five (55) years of age, the reduced limit shall not be less than Seventy-five Thousand Dollars (\$75,000.00) and, if payment begins prior to the member reaching fifty-five (55) years of age, the reduced limit shall not be less than the actuarial equivalent of the Seventy-five Thousand Dollar (\$75,000.00) limit for age fifty-five (55); provided further, that in no event shall such amount be reduced below Fifty Thousand Dollars (\$50,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of Treasury, or his delegate.

(a) For limitation years beginning before January 1, 1999, the interest rate to be used to determine such actuarial equivalent amount in this division shall be the rate specified in the actuarial tables adopted by the State Board; however, the interest rate used in determining an actuarially equivalent pre-age-sixty-two amount shall not be less than five percent (5%).

(b) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this division shall be determined using the prevailing commissioner's standard table (described in Code Section 807(d)(5)(A), without regard to any other subparagraph of Code Section 807(d)(5), used to determine reserves for group annuity contracts issued on the date as of which the payment is being determined.

(The current table is set forth in Revenue Ruling 95-6 and is based upon a fixed blend of fifty percent (50%) of the male mortality rates and fifty percent (50%) of the female mortality rates from the 1983 Group Annuity Mortality Table.) The interest rate shall be five percent (5%).

(c) For limitation years beginning on or after January 1, 1997, if payment begins before the member reaches age sixty-two (62), the reductions in the limitations in this division shall not apply to a member who is a "qualified participant" as defined in Section 415(b)(2)(H) of the Internal Revenue Code of 1986.

(2) If payment begins after the member reaches age sixty-five (65) years of age, the limitation in subparagraph a of this paragraph shall be the actuarial equivalent of such amount otherwise applicable at the member reaching sixty-five (65) years of age.

(a) For limitation years beginning before January 1, 1999, the interest rate to be used to determine such actuarial equivalent amount in this division shall be the rate specified in the actuarial tables adopted by the State Board; however, the interest rate used in determining an actuarially equivalent post-age-sixty-five amount shall not be greater than five percent (5%).

(b) Effective for limitation years beginning on or after January 1, 1999, the actuarial

equivalent adjustments in this division shall use the mortality and interest rate basis provided in subdivision (b) of division (1) of this subparagraph.

- g. In no event shall the maximum annual accrued retirement benefit of a member allowable under this section be less than the annual amount of such accrued retirement benefit, including early pension and qualified joint and survivor annuity amounts, duly accrued by the member as of the last day of the limitation year beginning in 1982, or as of the last day of the limitation year beginning in 1986, whichever is greater, disregarding any plan changes or cost-of-living adjustments occurring after July 1, 1982, as to the 1982 accrued amount, and May 5, 1986, as to the 1986 accrued amount.
- h. Effective for years beginning after December 31, 1997, if a member purchases service pursuant to Section 50-111.2 and Section 50-111.4 of this title, which qualifies as "permissive service credit" pursuant to Section 415(n) of the Internal Revenue Code of 1986, as amended, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, may be met by either:
- (1) treating the accrued benefit derived from such contributions as an annual benefit under paragraph 1 of this section, or
- (2) treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code of 1986, as amended.
- i. Effective for years beginning after December 31, 1997, if a member repays to the System any amounts received

because of his prior termination pursuant to subsection C of Section 50-111.1 of this title, such repayment shall not be taken into account for purposes of Section 415 of the Internal Revenue Code of 1986, as amended, pursuant to Section 415(k) (3) of the Internal Revenue Code of 1986, as amended.

For limitation years beginning on or after January 1, 1995, subparagraphs d, e and f of this paragraph shall not apply to a benefit paid under the System as the result of the member becoming disabled by reason of personal injuries or sickness, or amounts received by the beneficiaries, survivors or estate of the member as the result of the death of the member.

2. For distributions made in limitation years beginning prior to January 1, 2000, if a member also participates, or has participated, in one or more defined contribution plans, within the meaning of Section 415(k) of the Internal Revenue Code of 1986, as amended, maintained by a participating municipality, the sum of the defined benefit plan fraction and defined contribution plan fraction, as defined in subparagraphs a and b of this paragraph, shall not exceed one. If, in any limitation year, the sum of the defined benefit plan fraction and the defined contribution plan fraction for a member would exceed one without adjustment of the amount of the maximum annual accrued retirement benefit that can be paid to such member pursuant to paragraph 1 of this section, the amount of the maximum annual accrued retirement benefit that can be paid to such member pursuant to paragraph 1 of this section shall be reduced to the extent necessary to reduce the sum of the defined benefit plan fraction and the defined contribution plan fraction for the member to one, or the State Board may take such other action as will cause the sum to equal one or less. As used in this paragraph:

a. "Defined benefit fraction" means a fraction:

- (1) the numerator of which is the projected annual accrued retirement benefit of the member from the System, determined as of the close of the limitation year, and
- (2) the denominator of which is the lesser of one hundred twenty-five percent (125%) of the dollar limitation under Section 415(b)(1)(A) of the Internal Revenue Code of 1986, as amended, or one hundred forty percent (140%) of the percentage limitation under Section 415(b)(1)(B) of the Internal Revenue Code of 1986, as amended, for the year of determination, taking into account the effect of Section 235(g)(4) of the Tax Equity and Fiscal Responsibility Act of 1982.

b. "Defined contribution fraction" means a fraction:

- (1) the numerator of which is the sum of the annual additions, as defined in Section 415(c)(2) of the Internal Revenue Code of 1986, as amended, to the accounts of the member under all defined contribution plans maintained by the participating municipalities as of the close of the limitation year, subject to reduction to the extent permitted under the transition rule in Section 235(g)(3) of the Tax Equity and Fiscal Responsibility Act of 1982, and
- (2) the denominator of which is the sum of the lesser of one hundred twenty-five percent (125%) of the dollar limitation under Section 415(c)(1)(A) of the Internal Revenue Code of 1986, as amended, or one hundred forty percent (140%) of the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code of 1986, as amended,

for such limitation year and for all prior limitation years during which the member was employed by an eligible employer. At the option of the State Board, the denominator may be increased by using for limitation years ending prior to January 1, 1983, an amount equal to the denominator in effect for the limitation year ending in 1982, multiplied by the transition fraction provided in Section 415(e)(6)(B) of the Internal Revenue Code of 1986, as amended.

~~The State Board is hereby authorized to make the special election under Internal Revenue Code Section 415(b)(10). If this special election is made, the Section 415 limit for a member who joined the System prior to January 1, 1990 shall be the greater of: (1) the applicable Code Section 415 limit, or (2) the member's benefit under the System without regard to any benefit increases pursuant to a System amendment adopted after October 14, 1987.~~

3. The State Board is hereby authorized to revoke the special election previously made on June 19, 1991, under Internal Revenue Code Section 415(b)(10). ~~Under the special election, the Section 415 limit for a member who joined the System prior to January 1, 1990, shall be the greater of: (1) the applicable Code Section 415 limit, or (2) the member's benefit under the System without regard to any benefit increases pursuant to a System amendment adopted after October 14, 1987.~~

~~The State Board is hereby authorized to do all acts and things necessary and proper to carry out the purpose of the System and to make the least costly amendments and changes, if any, as may be necessary to qualify the System under the applicable sections of the Internal Revenue Code of 1986, as amended.~~

SECTION 9. AMENDATORY Section 4, Chapter 257, O.S.L. 1999 (11 O.S. Supp. 1999, Section 50-114.2), is amended to read as follows:

Section 50-114.2 A. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee may elect, at the time and in the manner prescribed by the State Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

B. For purposes of this section, the following definitions shall apply:

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a) (9) of the Internal Revenue Code of 1986; and the portion of any distribution that is not includable in gross income ~~(determined without regard to the exclusion for net unrealized appreciation with respect to employer securities);~~

2. "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, that accepts the Distributee's Eligible Rollover Distribution.

However, in the case of an Eligible Rollover Distribution to the surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity;

3. "Distributee" means an employee or former employee. In addition, effective June 7, 1993, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic ~~relations~~ order, as defined in ~~Section 414(p) of the Internal Revenue Code of 1986~~ subsection B of Section 50-124 of this title, are Distributees with regard to the interest of the spouse or the former spouse; and

4. "Direct Rollover" means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

C. At least thirty (30) days and not ~~less~~ more than ninety (90) days before the date of distribution, the Distributee must be provided with a notice of rights which satisfies Code Section 402(f) as to rollover options and tax effects. Such distribution may commence less than thirty (30) days after the notice is given, provided that:

1. The State Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

2. The Distributee, after receiving the notice, affirmatively elects a distribution.

SECTION 10. AMENDATORY 11 O.S. 1991, Section 50-124, as last amended by Section 6, Chapter 257, O.S.L. 1999 (11 O.S. Supp. 1999, Section 50-124), is amended to read as follows:

Section 50-124. A. Except as otherwise provided by this section, no portion of any of the funds of the System shall, either before or after any order made by the State Board for payment to any person entitled to a pension or allowance, be held, seized, taken,

subjected to, or detained, or levied on by virtue of any garnishment, attachment, execution, injunction, or other order or decree or any process or proceeding whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against any such person entitled to payment, nor shall said payments or any claim thereto be directly or indirectly assigned, and any attempt to assign or transfer the same shall be void. The said funds shall be held, invested, secured and distributed for the purposes named in this article, and for no other purpose whatever. Notwithstanding the foregoing, effective August 5, 1997, the State Board may approve any offset of a member's benefit to pay a judgment or settlement against the member for a crime involving the System or for a breach of the member's fiduciary duty to the System, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.

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

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.

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

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

5. A qualified domestic order shall clearly specify:

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

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

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

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

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

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

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

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

SECTION 11. AMENDATORY 11 O.S. 1991, Section 50-132, is amended to read as follows:

Section 50-132. The assets of the Fund shall consist of such assets and the income therefrom, including such contributions as shall from time to time be made to the State Board by each municipality, or property for which any of the same shall be exchanged or into which any of the same shall be converted, together with any other assets held from time to time hereunder by the State Board. All legal right, title and interest in and to the assets of the Fund shall at all times be held in trust and vested exclusively in the State Board or its nominee and no municipality shall be deemed to have severable ownership of any asset of the Fund or any right of partition or possession.

The State Board shall appraise and place valuation upon the assets of the Fund held by it as of the last business day of each

month. Any assets not held by the State Board shall be appraised and valued by the Executive Director on said date.

The valuation of all assets of the Fund shall be both at cost and at the fair market value thereof, as determined by reference to the best available source or sources, in the opinion of the Executive Director and the State Board and both the Executive Director and State Board may rely on figures, or statements appearing in any reputable publication purporting to state sales prices, market quotations, values, bid and asking prices or any facts affecting values and upon the opinion of one or more persons familiar with the reasonable market value of any assets to be valued and shall incur no liability for error in any such valuation made in good faith. The reasonable and equitable decision of the Executive Director and State Board regarding the method used in determining values shall be conclusive and binding upon all persons, natural or legal, having interest, direct or indirect, in the Fund's assets.

SECTION 12. AMENDATORY Section 7, Chapter 352, O.S.L. 1993 (11 O.S. Supp. 1999, Section 50-134.1), is amended to read as follows:

Section 50-134.1 All information, documents and copies thereof contained in a member's retirement file shall be given confidential treatment and shall not be made public by the Oklahoma Police Pension and Retirement System without the prior written consent of the member to which it pertains, but shall be subject to ~~subpoena or~~ court order.

SECTION 13. AMENDATORY 47 O.S. 1991, Section 2-300, as last amended by Section 22, Chapter 257, O.S.L. 1999 (47 O.S. Supp. 1999, Section 2-300), is amended to read as follows:

Section 2-300. As used in this act:

1. "System" means the Oklahoma Law Enforcement Retirement System;

2. "Act" means Sections 2-300 through 2-313 of this title;

3. "Board" means the Oklahoma Law Enforcement Retirement Board of the System;

4. "Executive Director" means the managing officer of the System employed by the Board;

5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

6. "Member" means all law enforcement officers of the Oklahoma Highway Patrol and the State Capitol Division of the Department of Public Safety and all commissioned officers in the Gunsmith/Ammunition Reloader Division of the Department of Public Safety who have obtained certification from the Council on Law Enforcement Education and Training, the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the ~~and prevention of crime and the enforcement~~ Oklahoma Alcoholic Beverage ~~Control Board~~ Laws Enforcement Commission designated to perform duties in the investigation of the criminal laws of this state, and members of the Communications Division to include radio technicians, tower technicians and commissioned officers of the Lake Patrol Division of the Oklahoma Department of Public Safety, park rangers of the Oklahoma Tourism and Recreation Department and inspectors of the Oklahoma State Board of Pharmacy, and any park manager or park supervisor of the Oklahoma Tourism and Recreation Department who was employed in such a position prior to July 1, 1985, and who elects on or before September 1, 1996, to participate in the System. A Effective July 1, 1987, a member does not include a "leased employee" ~~or independent contractor, including a leased employee,~~ as defined under Section 414(n)(2) of the Internal Revenue Code of 1986, as amended. Any Effective July 1, 1999, any individual who ~~contracts~~ agrees with the ~~Board for~~ participating employer that the individual's services are to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common-law employee by the Internal Revenue

Service or any other governmental agency, or any court of competent jurisdiction, provided that all persons who shall be offered a position of a law enforcement officer shall participate in the System upon the person meeting the requisite post-offer-pre-employment physical examination standards which shall be subject to the following requirements:

- a. all such persons shall be of good moral character, free from deformities, mental or physical conditions, or disease and alcohol or drug addiction which would prohibit the person from performing the duties of a law enforcement officer,
- b. said physical-medical examination shall pertain to age, sight, hearing, agility and other conditions the requirements of which shall be established by the Board,
- c. the person shall be required to meet the conditions of this subsection prior to the beginning of actual employment but after an offer of employment has been tendered by a participating employer,
- d. the Board shall have authority to deny or revoke membership of any person submitting false information in such person's membership application,
- e. the Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this subsection;

7. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day of the month coinciding with or following the date the member:

- a. completes twenty (20) years of vesting service; or
- b. attains sixty-two (62) years of age with ten (10) years of vesting service; or

c. attains sixty-two (62) years of age, if:

(1) the member has been transferred to this System from the Oklahoma Public Employees Retirement System on or after July 1, 1981; and

(2) the member would have been vested had the member continued to be a member of the Oklahoma Public Employees Retirement System;

Effective July 1, 1989, notwithstanding any other provision contained herein to the contrary, 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 actual retirement date of the member. The preceding sentence does not allow deferral of benefit commencement beyond the age of sixty-five (65).

A member who was required to join the System effective July 1, 1980, because of the transfer of the employing agency from the Oklahoma Public Employees Retirement System to the System, and was not a member of the Oklahoma Public Employees Retirement System on the date of such transfer shall be allowed to receive credit for prior law enforcement service rendered to this state, if the member is not receiving or eligible to receive retirement credit or benefits for such service in any other public retirement system, upon payment to the System of the employee contribution the member would have been subject to had the member been a member of the System at the time, plus five percent (5%) interest. Service credit received pursuant to this paragraph shall be used in determining the member's retirement benefit, and shall be used in determining years of service for retirement or vesting purposes;

8. "Actual paid base salary" means the salary received by a member, excluding payment for any accumulated leave or uniform

allowance. Salary shall include any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986;

9. "Final average salary" means the average of the highest thirty (30) consecutive complete months of actual paid gross salary. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1992, gross salary shall include any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended. Only salary on which required contributions have been made may be used in computing the final average salary.

In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 1996, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) annual salary limit. The OBRA '93 annual salary limit is One Hundred Fifty Thousand Dollars (\$150,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The annual salary limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which salary is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the OBRA '93 salary limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this section, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996.

For plan years beginning on or after July 1, 1996, any reference in the System to the annual salary limit under Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall mean the OBRA '93 salary limit set forth in this provision.

If gross salary for any prior determination period is taken into account in determining a Noneligible Member's benefits accruing in the current plan year, the gross salary for that prior determination period is subject to the OBRA '93 annual salary limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after July 1, 1996, the OBRA '93 annual salary limit is One Hundred Fifty Thousand Dollars (\$150,000.00).

Effective July 1, 1989, through June 30, 1997, in determining the gross salary of a member for purposes of this limitation, the rules of Section 414(q)(6) of the Internal Revenue Code of 1986, as amended, shall apply, except in applying such rules, the term "family" shall include only the spouse of the member and any lineal descendants of the member who have not attained age nineteen (19) before the close of the year. If, as a result of the application of such rules, the adjusted annual salary limitation is exceeded, then the limitation shall be prorated among the affected individuals in proportion to each such individual's gross salary as determined under this section prior to the application of this limitation.

~~The family member aggregation rules set forth in the preceding paragraph shall apply only to plan years beginning prior to July 1, 1997;~~

10. "Credited service" means the period of service used to determine the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor Plan as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor Plan which was

credited under the predecessor Plan and for officers of the Oklahoma State Bureau of Investigation and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control who became members of the System on July 1, 1980, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1980, and for members of the Communications and Lake Patrol Divisions of the Oklahoma Department of Public Safety, who became members of the System on July 1, 1981, any service credited under the predecessor Plan or the Oklahoma Public Employees Retirement System as of June 30, 1981, and for law enforcement officers of the Oklahoma Alcoholic Beverage Control Board who became members of the System on July 1, 1982, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1982, and for park rangers of the Oklahoma Tourism and Recreation Department who became members of the System on July 1, 1985, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1985, and for inspectors of the Oklahoma State Board of Pharmacy who became members of the System on July 1, 1986, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1986, for law enforcement officers of the State Capitol Division of the Department of Public Safety who became members of the System effective July 1, 1993, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1993, and for all commissioned officers in the Gunsmith/Ammunition Reloader Division of the Department of Public Safety who became members of the System effective July 1, 1994, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1994, and for the park managers or park supervisors of the Oklahoma Tourism and Recreation Department who were employed in such a position prior to July 1, 1985, and who elect to become members of the System effective September 1, 1996, any service transferred pursuant to subsection C of Section 2-309.6 of this title. Effective August 5,

1993, an authorized leave of absence shall include a period of absence pursuant to the Family and Medical Leave Act of 1993;

11. "Disability" means a physical or mental condition which, in the judgment of the Board, totally and presumably permanently prevents the member from engaging in the usual and customary duties of the occupation of the member and thereafter prevents the member from performing the duties of any occupation or service for which the member is qualified by reason of training, education or experience. A person is not under a disability when capable of performing a service to the employer, regardless of occupation, providing the salary of the employee is not diminished thereby; and

12. "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 14. AMENDATORY 47 O.S. 1991, Section 2-303.1, as last amended by Section 4, Chapter 290, O.S.L. 1996 (47 O.S. Supp. 1999, Section 2-303.1), is amended to read as follows:

Section 2-303.1 A. The Oklahoma Law Enforcement Retirement Board shall discharge its duties with respect to the System solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of:

- a. providing benefits to participants and their beneficiaries, and
- b. defraying reasonable expenses of administering the System;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the System so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the System.

B. The Board may procure insurance indemnifying the members of the Board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board.

C. The Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the Board appointed by the president of the Board. The committee shall make recommendations to the full Board on all matters related to the choice of custodians and managers of the assets of the System, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Board in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board nor take effect without the approval of the Board as provided by law.

D. The Board shall retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board. Subject to the overall investment guidelines set by the Board, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The Board shall manage those monies not specifically allocated to the investment managers. The monies of the System allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. All assets of the System shall be held in trust for the exclusive purpose of providing benefits for the members and beneficiaries of the System, including defraying reasonable expenses of administering the System, and shall not be encumbered for or diverted to any other purposes. Funds and revenues for investment by the investment managers or the Board shall be placed with a custodian selected by the Board. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board. In compliance with the investment policy guidelines of the Board, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the System are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the System as to the investment of the monies of the System in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Board for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

F. Prior to August 1 of each year, the Board shall develop a written investment plan for the System.

G. The Board shall compile a quarterly financial report of all the funds of the System on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The Board shall include in the quarterly reports all commissions,

fees or payments for investment services performed on behalf of the Board. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

H. After July 1 and before October 1 of each year, the Board shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection G of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the Board. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the System for the fiscal year. The annual financial statements must be audited and filed in accordance with the requirements set forth for financial statement audits in Section 212A of Title 74 of the Oklahoma Statutes.

I. The Board may retain an attorney licensed to practice law in this state. The attorney shall serve at the pleasure of the Board for such compensation as set by the Board. The Attorney General shall furnish such legal services as may be requested by the Board.

J. Effective July 1, 1999, the Board is hereby authorized to do all acts and things necessary and proper to carry out the purpose of the System and to make the least costly amendments and changes, if any, as may be necessary to qualify the System under the applicable sections of the Internal Revenue Code of 1986, as amended.

SECTION 15. AMENDATORY 47 O.S. 1991, Section 2-303.3, as last amended by Section 23, Chapter 257, O.S.L. 1999 (47 O.S. Supp. 1999, Section 2-303.3), is amended to read as follows:

Section 2-303.3 A. Except as otherwise provided by this section, any annuity, benefits, fund, property, or rights created by or accruing to any person pursuant to the provisions of Sections 2-300 through 2-313 of this title shall not be subject to execution, garnishment or attachment, and shall be unassignable, except as specifically provided by Sections 2-300 through 2-313 of this title. Notwithstanding the foregoing, effective August 5, 1997, the Board may approve any offset of a member's benefit to pay a judgment or settlement against the member for a crime involving the System or for a breach of the member's fiduciary duty to the System, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.

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

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.

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

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

5. A qualified domestic order shall clearly specify:

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

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

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

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

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

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

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

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

SECTION 16. AMENDATORY Section 25, Chapter 257, O.S.L. 1999 (47 O.S. Supp. 1999, Section 2-305.1A), is amended to read as follows:

Section 2-305.1A A. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

B. As used in this section:

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any

distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more, any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and the portion of any distribution that is not includable in gross income ~~(determined without regard to the exclusion for net unrealized appreciation with respect to employer securities)~~.

2. "Eligible Retirement Plan" means an individual retirement account described in Section ~~405(a)~~ 408(a) of the Internal Revenue Code of 1986, as amended, and individual retirement annuity described in Section ~~405(b)~~ 408(b) of the Internal Revenue Code of 1986, as amended, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity. An Eligible Retirement Plan does not include a Roth IRA under Section 408(a) of the Internal Revenue Code of 1986, as amended.

3. "Distributee" means an employee or former employee. In addition, effective June 7, 1993, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic ~~relations~~ order, as defined in ~~Section 414(p) of the Internal Revenue Code of 1986, as amended~~ subsection B of Section 2-303.3 of this title, are Distributees with regard to the interest of the spouse or the former spouse.

4. "Direct Rollover" means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

C. At least thirty (30) days and not more than ninety (90) days before the date of distribution, the Distributee must be provided with a notice of rights which satisfies Code Section 402(f) as to rollover options and tax effects. Such distribution may commence less than thirty (30) days after the notice is given, provided that:

1. The Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

2. The Distributee, after receiving the notice, affirmatively elects a distribution.

SECTION 17. AMENDATORY 47 O.S. 1991, Section 2-305.4, as amended by Section 24, Chapter 257, O.S.L. 1999 (47 O.S. Supp. 1999, Section 2-305.4), is amended to read as follows:

Section 2-305.4 A. Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member in the System shall be subject to the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, in accordance with the provisions of subsections B and C of this section.

B. Except as provided in paragraphs 3 through 7 of this subsection, any accrued retirement benefit payable to a member shall not exceed the lesser of:

1. Ninety Thousand Dollars (\$90,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of the Treasury or his delegate, effective January 1 of each calendar year and applicable to the limitation year ending with or within such calendar year; or

2. For limitation years beginning prior to January 1, 1995, one hundred percent (100%) of the average earnings of the member for the three (3) consecutive calendar years, while a member in the System,

in which the member's earnings were the highest. For purposes of this paragraph, earnings for any limitation year shall be the earned income of the member, wages, salaries, ~~and~~ fees for professional services, and other amounts received for personal services actually rendered in the course of employment with a participating employer, provided such amounts are actually paid or includable in gross income during such year. Earnings shall exclude the following:

- a. contributions by a participating employer to a plan of deferred compensation which are not included in the gross income of the member for the taxable year in which contributed or any distributions from a funded plan of deferred compensation, and
- b. other amounts which received special tax benefits, or contributions made by a participating employer, whether or not under a salary reduction agreement, towards the purchase of an annuity described in Section 403(b) of the Internal Revenue Code of 1986, whether or not the amounts are actually excludable from the gross income of the member;

3. Except as provided in paragraph 5 of this subsection, the limitations specified in paragraphs 1 and 2 of this subsection shall not be applicable with respect to any member whose total annual accrued retirement benefit payable from the System is less than Ten Thousand Dollars (\$10,000.00) and who has not at any time participated in any contribution plan, within the meaning of Section 415(k) of the Internal Revenue Code of 1986, as amended, maintained by a participating employer;

4. If a member has less than ten (10) years of participation in the System and all predecessor pension and retirement systems, the dollar limitation otherwise applicable under paragraph 1 of this subsection shall be reduced by multiplying such limitation by a fraction, the numerator of which is the number of the years of

participation in the System of the member, but never less than one (1), and the denominator of which is ten (10). This paragraph, to the extent required by the Secretary of the Treasury, shall be applied separately to each change in benefit structure hereunder. ~~For limitation years beginning on or after January 1, 1995, this paragraph shall not apply to a benefit paid under the System as the result of the member becoming disabled by reason of personal injuries or sickness, or amounts received by the beneficiaries, survivors or estate of the member as the result of the death of the member;~~

5. ~~The limitations of this paragraph shall apply only to~~ Effective for limitation years beginning ~~prior to~~ on or after January 1, 1995. ~~If, if~~ a member has been credited with less than ten (10) years of credited service, the ~~percentage of average earnings limitation otherwise applicable under paragraph 2 of this subsection and the~~ dollar amount otherwise applicable under paragraph 3 of this subsection shall be reduced by multiplying ~~each~~ such dollar amount by a fraction, the numerator of which is the number of the years of credited service of the member, but never less than one (1), and the denominator of which is ten (10);

6. The limitations specified in this section shall apply to a straight life annuity with no ancillary benefits and to an annuity that constitutes a qualified joint and survivor annuity. If payment is in a different form, the amount thereof shall be adjusted to be the actuarial equivalent of a single life annuity and the limitations shall be applied to such adjusted amount. Such adjustment shall be based on the mortality tables and interest rates described in divisions (1) and (2) of subparagraph a of this paragraph.

- a. If payment begins before the member reaches sixty-two (62) years of age, the limitation in paragraph 1 of this subsection shall be reduced on an actuarially

equivalent basis; provided however, if such payment begins after the member reaches fifty-five (55) years of age, the reduced limit shall not be less than Seventy-five Thousand Dollars (\$75,000.00) and, if payment begins prior to the member reaching fifty-five (55) years of age, the reduced limit shall not be less than the actuarial equivalent of the Seventy-five Thousand Dollar (\$75,000.00) limit for age fifty-five (55); provided further, that in no event shall such amount be reduced below Fifty Thousand Dollars (\$50,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of Treasury, or his delegate.

- (1) For limitation years beginning before January 1, 1999, the interest rate to be used to determine such actuarial equivalent amount in this subparagraph shall be the rate specified in the actuarial tables adopted by the Board; however, the interest rate used in determining an actuarially equivalent pre-age-sixty-two (62) amount shall not be less than five percent (5%).
- (2) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this subparagraph shall be determined using the prevailing Commissioner's standard table (described in Section 807(d)(5)(A) of the Internal Revenue Code of 1986, as amended), without regard to any other subparagraph of Section 807(d)(5), used to determine reserves for group annuity contracts issued on the date as of which the payment is being determined. (The current table is set

forth in Revenue Ruling 95-6 and is based upon a fixed blend of fifty percent (50%) of the male mortality rates and fifty percent (50%) of the female mortality rates from the 1983 Group Annuity Mortality Table.) The interest rate shall be five percent (5%).

(3) For limitation years beginning on or after January 1, 1997, if payment begins before the member reached age sixty-two (62), the reductions in the limitations in this subparagraph shall not apply to a member who is a "qualified participant" as defined in Section 415(b)(2)(H) of the Internal Revenue Code of 1986, as amended.

b. If payment begins after the member reaches sixty-five (65) years of age, the limitation in paragraph 1 of this subsection shall be the actuarial equivalent of such amount otherwise applicable at the member reaching sixty-five (65) years of age.

(1) For limitation years beginning before January 1, 1999, the interest rate to be used to determine such actuarial equivalent amount in this subparagraph shall be the rate specified in the actuarial tables adopted by the Board; however, the interest rate used in determining an actuarially equivalent post-age-sixty-five (65) amount shall not be greater than five percent (5%).

(2) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this subparagraph shall use the mortality and interest rate basis provided in division (2) of subparagraph a of this paragraph.

7. In no event shall the maximum annual accrued retirement benefit of a member allowable under this section be less than the annual amount of such accrued retirement benefit, including early pension and qualified joint and survivor annuity amounts, duly accrued by the member as of the last day of the limitation year beginning in 1982, or as of the last day of the limitation year beginning in 1986, whichever is greater, disregarding any plan changes or cost-of-living adjustments occurring after July 1, 1982, as to the 1982 accrued amount, and May 5, 1986, as to the 1986 accrued amount.

8. Effective for years beginning after December 31, 1997, if a member purchases service under Section 2-307.5 and/or Section 2-307.7 of this title, which qualifies as "permissive service credit" pursuant to Section 415(n) of the Internal Revenue Code of 1986, as amended, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, may be met by either:

- a. treating the accrued benefit derived from such contributions as an annual benefit under this section,  
or
- b. treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code of 1986, as amended.

9. Effective for years beginning after December 31, 1997, if a member repays to the System any amounts received because of his prior termination pursuant to paragraph 3 of subsection (b) of Section 2-307 of this title, such repayment shall not be taken into account for purposes of Section 415 of the Internal Revenue Code of 1986, as amended, pursuant to Section 415(k)(3) of the Internal Revenue Code of 1986, as amended.

For limitation years beginning on or after January 1, 1995, paragraphs 4, 5 and 6 of this subsection shall not apply to a benefit paid under the System as a result of the member becoming

disabled by reason of personal injuries or sickness, or amounts received by the beneficiaries, survivors or estate of the member as the result of the death of the member.

C. For distributions made in limitation years beginning prior to January 1, 2000, if a member also participates, or has participated, in one or more defined contribution plans, within the meaning of Section 415(k) of the Internal Revenue Code of 1986, maintained by a participating employer, the sum of the defined benefit plan fraction and defined contribution plan fraction, as defined in paragraphs 1 and 2 of this subsection, shall not exceed one. If, in any limitation year, the sum of the defined benefit plan fraction and the defined contribution plan fraction for a member would exceed one without adjustment of the amount of the maximum annual accrued retirement benefit that can be paid to such member pursuant to subsection B of this section, the amount of the maximum annual accrued retirement benefit that can be paid to such member pursuant to subsection B of this section shall be reduced to the extent necessary to reduce the sum of the defined benefit plan fraction and the defined contribution plan fraction for the member to one, or the Board may take such other action as will cause the sum to equal one or less. As used in this subsection:

1. "Defined benefit fraction" means a fraction:

- a. the numerator of which is the projected annual accrued retirement benefit of the member from the System, determined as of the close of the limitation year, and
- b. the denominator of which is the lesser of one hundred twenty-five percent (125%) of the dollar limitation under Section 415(b)(1)(A) of the Internal Revenue Code of 1986, as amended, or one hundred forty percent (140%) of the percentage limitation under Section 415(b)(1)(B) of the Internal Revenue Code of 1986, as amended, for the year of determination, taking into

account the effect of Section 235(g)(4) of the Tax Equity and Fiscal Responsibility Act of 1982;

2. "Defined contribution fraction" means a fraction:

- a. the numerator of which is the sum of the annual additions, as defined in Section 415(c)(2) of the Internal Revenue Code of 1986, as amended, to the accounts of the member under all defined contribution plans maintained by the participating municipalities as of the close of the limitation year, subject to reduction to the extent permitted under the transition rule in Section 235(g)(3) of the Tax Equity and Fiscal Responsibility Act of 1982, and
- b. the denominator of which is the sum of the lesser of one hundred twenty-five percent (125%) of the dollar limitation under Section 415(c)(1)(A) of the Internal Revenue Code of 1986, as amended, or one hundred forty percent (140%) of the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code of 1986, as amended, for such limitation year and for all prior limitation years during which the member was employed by an eligible employer. At the option of the Board, the denominator may be increased by using for limitation years ending prior to January 1, 1983, an amount equal to the denominator in effect for the limitation year ending in 1982, multiplied by the transition fraction provided in Section 415(e)(6)(B) of the Internal Revenue Code of 1986, as amended.

D. The Board is hereby authorized to revoke the special election previously made under Internal Revenue Code Section 415(b)(10). ~~Under the special election, the Section 415 limit for a member who joined the System prior to January 1, 1990 shall be the greater of:~~

~~1. The applicable Code Section 415 limit; or~~

~~2. The member's benefit under the System without regard to any benefit increases pursuant to a System amendment adopted after October 14, 1987.~~

~~E. In the event that the special election is made, paragraph 6 of subsection B of this section shall read as follows: "6. The limitations specified in this section shall apply to a straight life annuity with no ancillary benefits and to an annuity that constitutes a qualified joint and survivor annuity, provided payment begins at the age at which the member could receive an unreduced primary insurance amount under the federal Social Security laws (i.e., "social security retirement age") determined by disregarding the age increase factor thereunder and as if early retirement were sixty-two (62). If payment is in a different form, the amount thereof shall be adjusted to be the actuarial equivalent of a single life annuity and the limitations shall be applied to such adjusted amount. Such adjustment shall be based on the actuarial tables adopted by the Board. If payment begins before the member's social security retirement age, the limitation in paragraph 1 of this subsection shall be reduced by applying a reduction factor consistent with social security reduction factors, as prescribed by the Secretary of the Treasury; provided, however, that in no event shall such amount be reduced below Fifty Thousand Dollars (\$50,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of the Treasury, or his delegate. If payment begins after the participant's social security retirement age, the limitation in paragraph 1 of this subsection shall be the actuarial equivalent of such amount otherwise applicable at the member's social security retirement age, based on the actuarial tables adopted by the Board. The interest rate to be used in determining such actuarial equivalent amount shall be the rate specified in the actuarial tables adopted by the Board; however, the~~

~~interest rate used in determining an actuarially equivalent single life amount shall not be less than five percent (5%) and the interest rate used in determining an actuarially equivalent post-social security retirement age amount shall not be greater than five percent (5%)."~~

~~F. The Board is hereby authorized to do all acts and things necessary and proper to carry out the purpose of the System and to make the least costly amendments and changes, if any, as may be necessary to qualify the System under the applicable sections of the Internal Revenue Code of 1986, as amended.~~

SECTION 18. AMENDATORY 47 O.S. 1991, Section 2-306, as last amended by Section 7, Chapter 419, O.S.L. 1998 (47 O.S. Supp. 1999, 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)~~ Four Hundred Dollars (\$400.00) 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 19. This act shall become effective July 1, 2000.

SECTION 20. 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.

47-2-9479            MAH            6/11/15