

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2304

By: Stites

AS INTRODUCED

An Act relating to the Oklahoma Public Employees Retirement System; amending 74 O.S. 1991, Sections 902, as last amended by Section 30, Chapter 257, O.S.L. 1999, 919.1, as last amended by Section 13, Chapter 317, O.S.L. 1998, 920, as last amended by Section 3, Chapter 378, O.S.L. 1999 and 920A, as last amended by Section 4, Chapter 378, O.S.L. 1999 (74 O.S. Supp. 1999, Sections 902, 919.1, 920 and 920A), which relate to accrual of service credit; modifying definitions; authorizing continuation of certain service for retirement purposes; requiring written election; requiring establishment of certain service; requiring payment of employer contributions; providing for payment of employee contributions; providing for payment of employer contributions; providing for payment of certain employer and employee contributions; enacting The Oklahoma Public Employee Early Retirement Incentive Study Act of 2000; amending 74 O.S. 1991, Section 916.1, as last amended by Section 6, Chapter 167, O.S.L. 1999 (74 O.S. Supp. 1999, Section 916.1), which relates to death benefits; modifying death benefit amount; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 902, as last amended by Section 30, Chapter 257, O.S.L. 1999 (74 O.S. Supp. 1999, Section 902), is amended to read as follows:

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

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

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

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

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

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

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

(7) "Beneficiary" means any person named by a member to receive any benefits as provided for by Section 901 et seq. of this title. If there is no beneficiary living at time of member employee's death, the member's estate shall be the beneficiary;

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

(9) "Compensation" means all salary and wages, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, but exclusive of payment for overtime, payable to a member of the System for personal services performed for a participating employer, including maintenance, or any allowance in lieu thereof provided a member as a part of compensation, or the amount of compensation attributed to a member during a period of temporary total disability or temporary partial disability as defined by Section 22 of Title 85 of the Oklahoma Statutes and as provided by Section 2 of this act, but shall not include compensation or reimbursement for traveling, or moving expenses, or any compensation in excess of the maximum compensation level, provided:

(a) For compensation for service prior to January 1, 1988, the maximum compensation level shall be Twenty-five Thousand Dollars (\$25,000.00) per annum.

For compensation for service on or after January 1, 1988, through June 30, 1994, the maximum compensation

level shall be Forty Thousand Dollars (\$40,000.00) per annum.

For compensation for service on or after July 1, 1994, through June 30, 1995, the maximum compensation level shall be Fifty Thousand Dollars (\$50,000.00) per annum; for compensation for service on or after July 1, 1995, through June 30, 1996, the maximum compensation level shall be Sixty Thousand Dollars (\$60,000.00) per annum; for compensation for service on or after July 1, 1996, through June 30, 1997, the maximum compensation level shall be Seventy Thousand Dollars (\$70,000.00) per annum; and for compensation for service on or after July 1, 1997, through June 30, 1998, the maximum compensation level shall be Eighty Thousand Dollars (\$80,000.00) per annum. For compensation for services on or after July 1, 1998, there shall be no maximum compensation level for retirement purposes.

(b) Compensation for retirement purposes shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of non-elective salary reduction under Section 414(h) of the Internal Revenue Code of 1986.

(c) Notwithstanding any provision to the contrary, the compensation taken into account for any employee in determining the contribution or benefit accruals for any plan year is limited to the annual compensation limit under Section 401(a)(17) of the federal Internal Revenue Code;

(10) "Credited service" means the sum of participating service, prior service ~~and~~, elective service or workers' compensation disability service established pursuant to Section 2 of this act;

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

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

(13) "Eligible employer" means the state and any county, county hospital, city or town, conservation districts, and any public or private trust in which a county, city or town participates and is the primary beneficiary is to be an eligible employer for the purpose of this act only, whose employees are covered by Social Security and are not covered by or eligible for another retirement plan authorized under the laws of this state which is in operation on the initial entry date. Emergency medical service districts may join the System upon proper application to the Board. Provided affiliation by a county hospital shall be in the form of a resolution adopted by the board of control.

(a) If a class or several classes of employees of any above-defined employers are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, such employer shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this section.

(b) A class or several classes of employees who are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, and when the qualifications for employment in such class or classes are set by state law; and when such

class or classes of employees are employed by a county or municipal government pursuant to such qualifications; and when the services provided by such employees are of such nature that they qualify for matching by or contributions from state or federal funds administered by an agency of state government which qualifies as a participating employer, then the agency of state government administering the state or federal funds shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this subsection; provided, that the required contributions to the retirement plan may be withheld from the contributions of state or federal funds administered by the state agency and transmitted to the System on the same basis as the employee and employer contributions are transmitted for the direct employees of the state agency. The retirement or eligibility for retirement under the provisions of law providing pensions for service as a volunteer fire fighter shall not render any person ineligible for participation in the benefits provided for in Section 901 et seq. of this title. An employee of any public or private trust in which a county, city or town participates and is the primary beneficiary shall be deemed to be an eligible employee for the purpose of this act only;

(14) "Employee" means any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary or wage is equal to the hourly rate of the monthly minimum wage for state employees. For purposes of Section 2 of this act, a member receiving temporary

total or temporary partial workers' compensation benefits pursuant to Section 22 of Title 85 of the Oklahoma Statutes shall be treated as a participating member of the System during the period of time the member makes required employee contributions. For those eligible employers outlined in Section 910 of this title, the rate shall be equal to the hourly rate of the monthly minimum wage for that employer. Each employer, whose minimum wage is less than the state's minimum wage, shall inform the System of the minimum wage for that employer. This notification shall be by resolution of the governing body.

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

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

(e) Any employee employed by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session shall be eligible for membership in the System regardless of classification as a temporary employee and may participate in the System during the regular legislative session at the option of the employee. For purposes of this subparagraph, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives. Each regular legislative session during which the legislative employee or an employee of the Legislative Service Bureau

participates full time shall be counted as six (6) months of full-time participating service.

- (i) Except as otherwise provided by this subparagraph, once a temporary session employee makes a choice to participate or not, the choice shall be binding for all future legislative sessions during which the employee is employed.
- (ii) Notwithstanding the provisions of division (i) of this subparagraph, any employee, who is eligible for membership in the System because of the provisions of this subparagraph and who was employed by the State Senate or House of Representatives after January 1, 1989, may file an election, in a manner specified by the Board, to participate as a member of the System prior to September 1, 1989.
- (iii) Notwithstanding the provisions of division (i) of this subparagraph, a temporary legislative session employee who elected to become a member of the System may withdraw from the System effective the day said employee elected to participate in the System upon written request to the Board. Any such request must be received by the Board prior to October 1, 1990. All employee contributions made by the temporary legislative session employee shall be returned to the employee without interest within four (4) months of receipt of the written request;
- (iv) A temporary legislative session employee who did not initially elect to participate as a member of the System pursuant to subparagraph (e) of this paragraph and who has not elected to participate



as a member of the System pursuant to any other provision of this subparagraph shall be able to elect to become a member of the System and to acquire service performed as a temporary legislative session employee for periods of service performed prior to the election if:

- a. the employee files an election with the System not later than December 31, 1998, to become a member of the System and, subject to the requirements of this division, to purchase the prior service; and
- b. the employee makes payment to the System of the actuarial cost of the service credit pursuant to subsection A of Section 913.5 of this title. The provisions of Section 913.5 of this title shall be applicable to the purchase of the service credit, including the provisions for determining service credit in the event of incomplete payment due to cessation of payments, death, termination of employment or retirement, but the payment may extend for a period not to exceed ninety-six (96) months;

(15) "Entry date" means the date on which an eligible employer joins the System. The first entry date pursuant to Section 901 et seq. of this title shall be January 1, 1964;

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

(17) "Federal Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1, 1999;

(18) "Final average compensation" means the average annual salary, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, and the amount of any compensation attributed to a member pursuant to Section 2 of this act during the period of workers' compensation disability service, up to, but not exceeding the maximum compensation levels as provided in paragraph (9) of this section received during the highest three (3) of the last ten (10) years of participating service immediately preceding retirement or termination of employment. Provided, no member shall retire with a final average compensation unless the member has made the required contributions on such compensation;

(19) "Fiscal year" means the period commencing July 1 of any year and ending June 30 of the next year. The fiscal year is the plan year for purposes of the federal Internal Revenue Code; however, the calendar year is the limitation year for purposes of Section 415 of the federal Internal Revenue Code;

(20) "Fund" means the Oklahoma Public Employees Retirement Fund as created by Section 901 et seq. of this title;

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

(22) "Member" means an eligible employee or elected official who is in the System and is making the required employee or elected official contributions, making employee contributions required pursuant to Section 2 of this act, or any former employee or elected official who shall have made the required contributions to the System and shall have not received a refund or withdrawal;

(23) "Military service" means service in the Armed Forces of the United States in time of war or national emergency by honorably

discharged, not to exceed five (5) years for combined participating and/or prior service, for persons who served as follows:

- (a) in the Armed Forces of the United States at any time during the period from April 6, 1917, to November 11, 1918, both dates inclusive,
- (b) in the Armed Forces of the United States as members of the 45th Division at any time during the period from September 16, 1940, to December 7, 1941, both dates inclusive,
- (c) in the Armed Forces of the United States at any time during the period from December 7, 1941, to December 31, 1946, both dates inclusive,
- (d) in the Armed Forces of the United States at any time during the period from June 27, 1950, to January 31, 1955, both dates inclusive,
- (e) for a period of ninety (90) days or more, unless discharged from active duty for a service-connected disability, in the Armed Forces of the United States during the period of time in which the United States participated in a war, campaign or battle, but excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability,
- (f) in the Armed Forces of the United States at any time during the period which began on:
  - (i) February 28, 1961, and ended on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period, and
  - (ii) August 5, 1964, and ended on May 7, 1975, in all other cases,

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

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

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

(24) "Normal retirement date" means the date on which a member may retire with full retirement benefits as provided in Section 901 et seq. of this title, such date being whichever occurs first:

- (a) the first day of the month coinciding with or following a member's sixty-second birthday,
- (b) for any person who initially became a member prior to July 1, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total eighty (80); such a normal retirement date will also apply to any person who became a member of the sending system as defined in Section 901 et seq. of this title, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992,
- (c) for any person who became a member after June 30, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age

and number of years of credited service total ninety (90),

(d) in addition to subparagraphs (a), (b) and (c) of this paragraph, the first day of the month coinciding with or following a member's fiftieth birthday if the member has at least twenty (20) years of full-time-equivalent employment as a correctional or probation and parole officer with the Department of Corrections and at the time of retirement, the member was a correctional or probation and parole officer with the Department of Corrections, or

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

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

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

(27) "Prior service" means the period of employment of a member by an eligible employer prior to the member's entry date for which credit is granted a member under Section 901 et seq. of this title;

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

(29) "Retirement benefit" means a monthly income with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to Section 901 et seq. of this title or as otherwise allowed to be paid at the discretion of the Board;

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

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

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

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

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

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

(36) "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. ~~—; and~~

(37) "Workers' compensation disability service" means a period of time after which a member's annual leave, sick leave or other leave with a participating employer has been fully used, but during

which the member is receiving either temporary total disability benefits or temporary partial disability benefits as authorized by Section 22 of Title 85 of the Oklahoma Statutes and the employer continues to make employer contributions as provided by Section 2 of this act and during which the employee makes required employee contributions as provided by Section 2 of this act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 913.8 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. A member of the System who receives temporary total disability or temporary partial disability benefits pursuant to Section 22 of Title 85 of the Oklahoma Statutes after the member has fully used the member's accumulated annual leave, sick leave or other leave benefits may continue to accrue service credit with the System during the period of the disability according to the requirements of this section.

B. A member who elects to continue accrual of service within the System during a period described by subsection A of this section shall file an election with the System on a form prescribed by the System for such purpose prior to the date as of which the member's accumulated annual leave, sick leave or other leave benefits are fully used. If a member files an election as authorized by this section, the System shall establish a period of workers' compensation disability service for the member.

C. During the period of workers' compensation disability service, the participating employer shall make the required employer contributions upon the amount of compensation received by the member during the last pay period prior to the first payment of workers' compensation disability benefits to the member.

D. During the period of workers' compensation disability service, the member having elected to make employee contributions during the period of workers' compensation disability service shall

make payment to the System of any required employee contributions upon the amount of compensation received by the member during the last pay period prior to the first payment of temporary total or temporary partial workers' compensation disability benefits to the member.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 919.1, as last amended by Section 13, Chapter 317, O.S.L. 1998 (74 O.S. Supp. 1999, Section 919.1), is amended to read as follows:

Section 919.1 (1) Effective July 1, 1998, employee contributions to the System, including contributions during a period of workers' compensation disability service, shall be:

(a) for employees except as otherwise provided in paragraphs (b) and (c) of this subsection: beginning July 1, 1998, and thereafter, three percent (3%) of allowable annual compensation not in excess of Twenty-five Thousand Dollars (\$25,000.00);

(b) for all employees except as otherwise provided in paragraphs (a) and (c) of this subsection:

(i) beginning July 1, 1998, and thereafter, three and one-half percent (3 1/2%) of allowable annual compensation of more than Twenty-five Thousand Dollars (\$25,000.00), but not in excess of Forty Thousand Dollars (\$40,000.00),

(ii) beginning July 1, 1998, and thereafter, three and one-half percent (3 1/2%) of allowable annual compensation in excess of Forty Thousand Dollars (\$40,000.00);

(c) for correctional officers and probation and parole officers employed by the Department of Corrections: beginning July 1, 1998, and thereafter, eight percent (8%) of allowable compensation as provided in subsection (9) of Section 902 of this title.



The contributions required by this paragraph shall be made by a member for not more than twenty (20) years and thereafter shall be as provided in paragraph (a) of this subsection.

(2) ~~Contributions~~ Except for employee contributions made during a period of workers' compensation disability, contributions shall be deducted by each state agency by the participating employer for such benefits as the Board is authorized to administer as provided for by law. Employee and employer contributions shall be remitted monthly, or as the Board may otherwise provide, to the Executive Director for deposit in the Oklahoma Public Employees Retirement Fund.

(3) Each participating employer shall pick up under the provisions of Section 414(h) (2) of the Internal Revenue Code of 1986 and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1988. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the participating employer in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the participating employer to the System.

Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the participating employer. Member contributions so picked up shall be included in gross salary for purposes of determining benefits and contributions under the System.

The participating employer shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member.

(4) By September 1, 1989, the System shall refund the accumulated employee contributions of any member who elects to retain the member's membership in the Teachers' Retirement System of Oklahoma, in accordance with Section 17-104 of this title, to such member. Upon the refund of the accumulated employee contributions referred to in this subsection, all benefits and rights accrued to such member are terminated.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 920, as last amended by Section 3, Chapter 378, O.S.L. 1999 (74 O.S. Supp. 1999, Section 920), is amended to read as follows:

Section 920. (1) Effective July 1, 1994, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, but not in excess of Forty Thousand Dollars (\$40,000.00).

(2) Effective July 1, 1995, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, not to exceed the allowable annual compensation as defined in subsection (9) of Section 902 of this title.

(3) Effective July 1, 1996, every state agency which is a participating employer shall contribute to the System an amount equal to twelve percent (12%) of the monthly compensation of each member, not to exceed the allowable annual compensation defined in subsection (9) of Section 902 of this title.

(4) Effective July 1, 1999, and thereafter, every state agency which is a participating employer shall contribute to the System an amount equal to ten percent (10%) of the monthly compensation of

each member, including compensation attributed to the member during a period of workers' compensation disability service pursuant to Section 2 of this act, not to exceed the allowable annual compensation defined in subsection (9) of Section 902 of this title.

(5) The Board shall certify, on or before July 15 of each year, to the Office of State Finance in the case of the state and to the retirement coordinator for each participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the System, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the System, including amortization of the past service cost over a period of not to exceed forty (40) years from June 30, 1987, and the cost of administration of the System, as determined by the Board, upon recommendation of the actuary.

(6) The Office of State Finance and the Governor shall include in the budget and in the budget request for appropriations the sum required to satisfy the state's obligation under this section as certified by the Board and shall present the same to the Legislature for allowance and appropriation.

(7) Each other participating employer shall appropriate and pay to the System a sum sufficient to satisfy the obligation under this section as certified by the Board.

(8) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which said contribution is paid from or from any other funds available to it for such purpose.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 920A, as last amended by Section 4, Chapter 378, O.S.L. 1999 (74 O.S. Supp. 1999, Section 920A), is amended to read as follows:

Section 920A. A. Any county, county hospital, city or town, conservation district or any public or private trust in which a

county, city or town participates and is the primary beneficiary, which is a participating employer and any eligible employee shall contribute to the System. The total employer and employee contributions shall be based on the allowable annual compensation as defined in subsection (9) of Section 902 of this title. Except as provided for in this section, the employer shall not pay for the employee any of the employee contribution to the System.

B. For the period beginning July 1, 1999, and for each year thereafter, the total employer and employee contributions shall equal thirteen and one-half (13 1/2%) of the allowable monthly compensation of each member, including the amount of compensation attributed to the member during a period of workers' compensation disability service as provided in Section 2 of this act; provided, however, each participating employer listed in this section may set the amount of the employer and employee contribution to equal thirteen and one-half percent (13 1/2%) of the allowable monthly compensation of each member for compensation as provided in subsection (9) of Section 902 of this title; provided, the employer contribution shall not exceed ten percent (10%) and the employee contribution shall not exceed eight and one-half percent (8 1/2%).

C. Each participating employer pursuant to the provisions of this section may pick up under the provisions of Section 414(h) (2) of the Internal Revenue Code of 1986 and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1989. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the participating employer in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The

member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the participating employer to the System.

D. Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the participating employer. Member contributions so picked up shall be included in gross salary for purposes of determining benefits and contributions under the System.

E. The participating employer shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member.

SECTION 6. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Section 6 of this act shall be known and may be cited as the "Oklahoma Public Employee Early Retirement Incentive Study Act of 2000".

SECTION 7. AMENDATORY 74 O.S. 1991, Section 916.1, as last amended by Section 6, Chapter 167, O.S.L. 1999 (74 O.S. Supp. 1999, Section 916.1), is amended to read as follows:

Section 916.1 A. Upon the death of a retired member, the Oklahoma Public Employees Retirement System shall pay to the beneficiary of the member or if there is no beneficiary or if the beneficiary predeceases the member, to the estate of the member, the sum of ~~Four Thousand Dollars (\$4,000.00)~~ Seven Thousand Five Hundred Dollars (\$7,500.00) as a death benefit ~~for those retired members who died prior to July 1, 1999. For those retired members who died on or after July 1, 1999, the sum shall be Five Thousand Dollars (\$5,000.00).~~

B. Upon the death of a member who dies leaving no living beneficiary or having designated his estate as beneficiary, the System may pay any applicable death benefit, unpaid contributions, or unpaid benefit which may be subject to probate, in an amount of Five Thousand Dollars (\$5,000.00) or less, without the intervention of the probate court or probate procedure pursuant to Section 1 et seq. of Title 58 of the Oklahoma Statutes.

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

- a. the member's valid last will and testament,
- b. an affidavit or affidavits of heirship which must state:
  - (1) the names and signatures of all claiming heirs to the deceased member's estate including the claiming heirs' names, relationship to the deceased, current addresses and current telephone numbers,
  - (2) a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,
  - (3) a statement that the value of the deceased member's entire estate is subject to probate, and that the estate wherever located, less liens and encumbrances, does not exceed Five Thousand Dollars (\$5,000.00), including the payment of benefits or unpaid contributions from the System as authorized by this subsection,
  - (4) a description of the personal property claimed (i.e., death benefit or unpaid contributions or

both), together with a statement that such personal property is subject to probate, and  
(5) a statement by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System, and that the heir has been notified of, is aware of and consents to the identified claims of all the other claiming heirs of the deceased member pending with the System,

- c. a written agreement or agreements signed by all claiming heirs of the deceased member which provides that the claiming heirs release, discharge and hold harmless the System from any and all liability, obligations and costs which it may incur as a result of making a payment to any of the deceased member's heirs,
- d. a corroborating affidavit from an individual other than a claiming heir, who was familiar with the affairs of the deceased member, and
- e. proof that all debts of the deceased member, including payment of last sickness, hospital, medical, death, funeral and burial expenses have been paid or provided for.

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

3. After paying any death benefits or unpaid contributions to any claiming heirs as provided pursuant to this subsection, the System is discharged and released from any and all liability,

obligation and costs to the same extent as if the System had dealt with a personal representative of the deceased member. The System is not required to inquire into the truth of any matter specified in this subsection or into the payment of any estate tax liability.

SECTION 8. This act shall become effective July 1, 2000.

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

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