

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1416

By: Staggs

COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; amending 11 O.S. 2001, Section 49-138, which relates to the Oklahoma Firefighters Pension and Retirement System; amending 11 O.S. 2001, Section 50-128, which relates to the Oklahoma Police Pension and Retirement System; amending 20 O.S. 2001, Section 1102.2, which relates to the Uniform Retirement System for Justices and Judges; amending 47 O.S. 2001, Section 2-307.4, which relates to the Oklahoma Law Enforcement Retirement System; amending 74 O.S. 2001, Section 913, which relates to the Oklahoma Public Employees Retirement System; modifying provisions related to credit for certain military service; providing credit authorized subject to limitation; requiring purchase of military service credit by certain persons; 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. 2001, Section 49-138, is amended to read as follows:

Section 49-138. A. Any member of a regularly constituted fire department of any municipality who is now serving or may hereafter serve in the land or naval forces of the United States under the Act of Congress of September 16, 1940 (50 U.S.C.A. Sections 301-318), known as the Selective Training and Service Act of 1940, and/or Public Law No. 759, 80th Congress, known as the Selective Service Act of 1948, and amendments thereto, whether such service is voluntary or involuntary, who shall have been a member of such fire department at the time of entering such service, shall be entitled to have the whole of the time of such service applied under the provisions of Section 49-106 of this title, so far as the same

applies to a service pension; provided further, that the municipality shall continue its payment into said pension fund, to the same force and effect as though the member were in the actual service of such fire department; provided, that any person who is eligible for such service under said Acts of Congress but who shall have volunteered for military or naval service for a greater period than is provided by said Acts shall likewise be entitled to all of the benefits of Sections 49-138 through 49-142 of this title for the full period of such service or enlistment; provided further, that only one such period of voluntary service shall be considered hereunder. If such person shall reenlist, unless he is required to do so by law, he shall not thereafter be entitled to the provisions of this act. The provisions of this act shall not apply where any such person dies during the period of said service or enlistment, and shall not entitle the surviving spouse or children to any benefits.

B. Effective February 1, 1997, credited service received pursuant to this section or credited service for wartime military service received as otherwise provided by law shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement, vesting purposes or eligibility for participation in the Oklahoma Firefighters Deferred Option Plan. For a member of the System hired on or after July 1, 2003, if the military service credit authorized by this section is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

C. A member who retires or elects to participate in the Oklahoma Firefighters Deferred Option Plan on or after July 1, 1998,

shall receive maximum benefits available for each year of creditable service, not to exceed five (5) years, for active military service for retirement benefits for service rendered prior to being hired by a regularly constituted fire department.

For purposes of this subsection, "military service" means service in the Armed Forces of the United States in time of war or national emergency by honorably discharged persons who served as follows:

1. In the Armed Forces of the United States at any time during the period from April 6, 1917, to November 11, 1918, both dates inclusive;

2. In the Armed Forces of the United States as members of the 45th Division at any time during the period from September 16, 1940, to December 7, 1941, both dates inclusive;

3. In the Armed Forces of the United States at any time during the period from December 7, 1941, to December 31, 1946, both dates inclusive;

4. In the Armed Forces of the United States at any time during the period from June 27, 1950, to January 31, 1955, both dates inclusive;

5. For a period of ninety (90) days or more, unless discharged from active duty for a service-connected disability, in the Armed Forces of the United States during the period of time in which the United States participated in a war, campaign or battle, but excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability;

6. In the Armed Forces of the United States at any time during the period which began on:

- a. February 28, 1961, and ended on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period, and

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

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

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

D. An eligible member pursuant to subsection C of this section shall include only those persons who shall have served during the times or in the areas prescribed in this section, 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. The provisions of subsection C of this section shall include military retirees, whose retirement was based only on active service, that have been rated as having twenty percent (20%) or greater service-connected disability by the Veterans Administration or the Armed Forces of the United States. The provisions of subsection C of this section shall not apply to any person who shall have served on active duty for training purposes only unless discharged from active duty for a service-connected disability.

E. Notwithstanding any provision herein to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986.

F. Members or beneficiaries shall make application to the System for credited service related to wartime military service. Interest on additional benefits related to wartime military service owed by the System to a retired member or beneficiary as provided by

law shall cease accruing one (1) year after the effective date the additional benefits are payable by the System or July 1, 2000, whichever is later, if the member has not applied to the System for credited service related to such wartime military service.

G. For members of the System hired on or after July 1, 2003, the military service credit authorized by this section for military service performed prior to the member's entry into the System shall be paid for by the member at actuarial cost according to the requirements of Section 49-117.3 of this title.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 50-128, is amended to read as follows:

Section 50-128. A. Any member who has heretofore left the Police Department qualifying under this article to enter the military service of the United States during World War II and who returned to said department on or before July 1, 1947, or the Korean conflict and who returned to said department on or before January 1, 1956, shall receive credit for such time in military service without having made contribution to the System; and any member who has heretofore left, or hereafter may leave said department because of involuntary conscription into the military services of the United States at any time and who returns to said department within ninety (90) days after the member's release from such involuntary service shall receive credit for such time in said military service on the Police Department without having made contribution to the System only for that period that is involuntary; voluntary enlistments and voluntary extensions of military service being herewith specifically excluded for retirement credit.

B. A member who retires on or after July 1, 1998, shall receive maximum benefits available for each year of creditable service, not to exceed five (5) years, for active military service for retirement benefits for service rendered prior to being hired by a Police Department. For members of the System hired on or after July 1,

2003, if the military service credit authorized by this subsection is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

For purposes of this subsection, "military service" means service in the Armed Forces of the United States in time of war or national emergency by honorably discharged persons who served as follows:

1. In the Armed Forces of the United States at any time during the period from April 6, 1917, to November 11, 1918, both dates inclusive;

2. In the Armed Forces of the United States as members of the 45th Division at any time during the period from September 16, 1940, to December 7, 1941, both dates inclusive;

3. In the Armed Forces of the United States at any time during the period from December 7, 1941, to December 31, 1946, both dates inclusive;

4. In the Armed Forces of the United States at any time during the period from June 27, 1950, to January 31, 1955, both dates inclusive;

5. For a period of ninety (90) days or more, unless discharged from active duty for a service-connected disability, in the Armed Forces of the United States during the period of time in which the United States participated in a war, campaign or battle, but excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability;

6. In the Armed Forces of the United States at any time during the period which began on:

- a. February 28, 1961, and ended on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period, and
- b. August 5, 1964, and ended on May 7, 1975, in all other cases,

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

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

C. An eligible member pursuant to subsection B of this section shall include only those persons who shall have served during the times or in the areas prescribed in this section, 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. The provisions of subsection B shall include military retirees, whose retirement was based only on active service, that have been rated as having twenty percent (20%) or greater service-connected disability by the Veterans Administration or the Armed Forces of the United States.

D. Effective December 12, 1994, a leave of absence on account of a period of "qualified military service" in the uniformed services of the United States (within the meaning of Section 414(u) (5) of the Internal Revenue Code of 1986), followed by a return to the service of the participating municipality within ninety (90) days after the completion of the period of service, shall constitute credited service. Notwithstanding any provision herein to the contrary, contributions, benefits and service credit

with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986.

E. For members of the System hired on or after July 1, 2003, the military service credit authorized by this section for military service performed prior to the member's entry into the System shall be paid for by the member at actuarial cost according to the requirements of Section 50-111.4 of this title.

SECTION 3. AMENDATORY 20 O.S. 2001, Section 1102.2, is amended to read as follows:

Section 1102.2 A. Any active member of the Uniform Retirement System for Justices and Judges who served in the Armed Forces of the United States, as defined in paragraph (23) of Section 902 of Title 74 of the Oklahoma Statutes, prior to membership in the Uniform Retirement System for Justices and Judges shall be granted service credit, not to exceed five (5) years, for those periods of active military service during which the member was a war veteran. Any active member of the Uniform Retirement System for Justices and Judges whose initial membership in the System began on or after July 1, 2000, may receive up to five (5) years of prior military service credit as otherwise provided in this section, only upon payment of the amount determined by the Board pursuant to Section 1103G of this title. For members of the System hired on or after July 1, 2003, if the military service credit authorized by this subsection is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

B. Effective December 12, 1994, and thereafter, a leave of absence on account of a period of qualified military service in the uniformed services of the United States within the meaning of

Section 414(u) (5) of the federal Internal Revenue Code, followed by a return to service as a Justice or judge within ninety (90) days after completion of the period of service may be eligible for service credit under this System. Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be allowed in accordance with Section 414(u) of the federal Internal Revenue Code.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 2-307.4, is amended to read as follows:

Section 2-307.4 A. Any member of the Oklahoma Law Enforcement Retirement System with military service prior to membership in the Oklahoma Law Enforcement Retirement System shall be granted service credit, not to exceed five (5) years, for those periods of active military service during which the member was a war veteran. Any active member of the Oklahoma Law Enforcement Retirement System whose initial membership in the System began on or after July 1, 2000, may receive up to five (5) years of prior military service credit as otherwise provided in this section, only upon payment of the amount determined by the Board in the manner as provided in Section 2-307.5 of this title. For members of the System hired on or after July 1, 2003, if the military service credit authorized by this subsection is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

B. As used in this section, "military service" means service in the Armed Forces of the United States in time of war or national emergency by honorably discharged persons who served as follows:

1. In the Armed Forces of the United States at any time during the period from April 6, 1917, to November 11, 1918, both dates inclusive;

2. In the Armed Forces of the United States as members of the 45th Division at any time during the period from September 16, 1940, to December 7, 1941, both dates inclusive;

3. In the Armed Forces of the United States at any time during the period from December 7, 1941, to December 31, 1946, both dates inclusive;

4. In the Armed Forces of the United States at any time during the period from June 27, 1950, to January 31, 1955, both dates inclusive;

5. For a period of ninety (90) days or more, unless discharged from active duty for a service-connected disability, in the Armed Forces of the United States during the period of time in which the United States participated in a war, campaign or battle, but excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability;

6. In the Armed Forces of the United States at any time during the period which began on:

a. February 28, 1961, and ended on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period, and

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

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

7. In the Armed Forces of the United States on or after August 1, 1990, and ended on December 31, 1991, excluding any person who

shall have served on active duty for training only, unless discharged from active duty for service-connected disability.

C. An eligible member pursuant to this section shall include only those persons who shall have served during the times or in the areas prescribed in this section, 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.

D. Service credit received pursuant to this section shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement or vesting purposes.

SECTION 5. AMENDATORY 74 O.S. 2001, Section 913, is amended to read as follows:

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

1. A member shall receive full credit for employment with any participating employer prior to the entry date of his or her employer whether or not continuous and whether or not he or she was employed with a participating employer on such entry date, provided that any member who has retired before the passage of Section 901 et seq. of this title, shall not receive retirement benefits retroactively for such prior service. Provided, that at such time that an employer becomes a participating employer on or after January 1, 1965, and before January 1, 1975, each member and each retirant, upon making proper written application therefor, shall receive prior service credit for service with such employer in the same manner as if such participating employer had been a participating employer on the date first eligible to become a participating employer; and increased benefits attributable to such increased prior service credit shall commence with the next monthly benefit payment due following receipt and approval of such application by the Board of Trustees. No prior service shall be

granted, however, for periods of service in which the employee made contributions which he or she subsequently withdrew, unless he or she has complied with the provisions of subsection (5) of Section 917 of this title. The burden of proof regarding prior service shall be with the member and shall be documented in such manner as the Board may direct;

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

3. Any member who served in the Armed Forces of the United States, as defined in paragraph (23) of Section 902 of this title, prior to membership in the Oklahoma Public Employees Retirement System shall be granted prior service credit, not to exceed five (5) years, for those periods of active military service during which he or she was a war veteran. For members of the System hired on or after July 1, 2003, if the military service credit authorized by this paragraph is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires;

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

- a. becomes an employee of a participating employer within four (4) calendar months of the expiration of his or her term of office current at the time of his or her eligibility except for his or her being an elective state or county official, or
- b. within a period of four (4) years after the expiration of his or her term of office current at the time of his or her eligibility except for his or her being an elective state or county official, is elected as a state or county official and thereupon becomes a member of the System, or
- c. has completed ten (10) years of credited service as of the date of his or her eligibility for membership except for his or her being an elective state or county official;

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

at the Oklahoma School for the Blind and Oklahoma School for the Deaf on June 30, 1965, who became subject to the Oklahoma Public Employees Retirement System, on July 1, 1965, shall receive credit for prior service and be eligible for participation, regardless of age;

6. A member employed as a temporary employee by the Legislative Service Bureau or its predecessors, the State Senate or the House of Representatives for the full duration of a regular legislative session prior to the member's eligibility for membership in the System shall receive six (6) months of prior service credit for each such full regular legislative session if the employee is employed by the Legislative Service Bureau or its predecessors, the State Senate or the House of Representatives as either a full-time or temporary employee for a minimum of six (6) full regular legislative sessions beginning January 1, 1983. For purposes of this subsection, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives;

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

8. Any member who is a state employee and receives temporary total disability benefits during the period of absence with a participating employer due to a work-related injury or illness incurred while engaged in a governmental function for said

participating employer pursuant to the Workers' Compensation Act shall receive credit for participating service during said period of absence subject to the following requirements:

- a. the member was employed by the participating employer immediately prior to and during the period of absence,
- b. the member must notify the System in writing not later than four (4) months after the member's return to his or her job duties with the participating employer, or termination of employment with the participating employer, or termination of the temporary total disability benefits, whichever is earlier, of the member's desire to receive participating service credit for the period of absence,
- c. the participating employer must certify to the System in writing the dates during which temporary total disability benefits payments were paid to the member, and
- d. the member and the participating employer shall each pay their respective contributions required for the period of absence without interest within sixty (60) days of invoicing by the System, or with interest of seven and one-half percent (7 1/2%) compounded annually if paid after said sixty (60) days.

B. Participating service shall be credited as follows:

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

2. Leaves of absence shall not count as a break in continuous employment provided the member leaves his or her accumulated contribution on deposit with the fund; however, the leaves of

absence shall not be credited except that involuntary furloughs established by Office of Personnel Management rules shall be credited;

3. Any member who has served in the Armed Forces of the United States, as defined in paragraph (23) of Section 902 of this title, shall be granted participating service for those periods of active military service during which he or she was a war veteran provided this service is immediately preceded by a period of employment with a participating employer and is followed by return to employment as an employee with the same or another participating employer within ninety (90) days immediately following discharge from such military service provided the member leaves his or her accumulated contributions on deposit with the fund;

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

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

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

Employee accumulated contributions:

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

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

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

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

More than \$2,000 = 5 years participating service

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

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

7. The total participating service credit of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred thirty (130) days of unused sick leave accumulated subsequent to August 1, 1959, during the member's employment with any participating employer. Such credit shall be added in terms of whole months. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of participating service credit. If unused sick leave entitles a member to an additional year of service credit, the member's employer shall reimburse the System for the cost of funding the additional reserve. Each participating employer shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this paragraph. This paragraph shall apply to members retiring or vesting on or after July 1, 1984.

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

D. A member may receive credit for those years of credited service accumulated by the member while a member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, or the Teachers' Retirement System of Oklahoma, if the member is not receiving or eligible to receive retirement credit or benefits from

said service in any other public retirement system. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

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

F. Effective December 12, 1994, and thereafter, a leave of absence on account of a period of qualified military service in the uniformed services of the United States within the meaning of Section 414(u)(5) of the federal Internal Revenue Code, followed by a return to employment with the participating employer within ninety (90) days after completion of the period of service may be eligible for credited service under this System. Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be allowed in accordance with Section 414(u) of the federal Internal Revenue Code.

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

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

- b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer said retirement credit. The notice shall include a list of the years to be transferred, and
- c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

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

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

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

- (1) for members who have vested with the sending system, determine the present value of the member's earned benefits attributable to the years of service sought to be transferred, discounted according to the member's age at the

time of transfer and computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation but shall not make any projections regarding future salary. For vested employees the sending system shall use the product of this calculation for purposes of determining the transfer fee to be paid by the employee under subparagraph c of this paragraph so long as it is greater than the product of the calculation in this division, and

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

- b. Within thirty (30) days notification of an intent to transfer is received by the receiving system, the

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

- c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is received by the sending system, transfer to the receiving system the amount determined in subparagraph a of this paragraph. Except, if the cost under subparagraph a of this paragraph for the same years of service to the sending system is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.
- d. In order to receive the credit provided for in paragraph 1 of this subsection, if the cost of the actuarial value of the incremental benefit to the receiving system is greater than the cost as

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

- (1) pay any difference to receive full credit for the years sought to be transferred, or
- (2) receive prorated service credit for only the amount received from the Teachers' Retirement System of Oklahoma pursuant to this subsection.

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

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's

death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

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

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

6. If any member fails for any reason to satisfy the requirements of this subsection, the election to transfer retirement credit shall be void and of no effect, and any retirement credited

as a result of this transfer shall be canceled. If such retirement credit is canceled, the years of canceled retirement credit which were unsuccessfully transferred to the receiving system from the sending system shall be reestablished in the sending system. The member's rights and obligations regarding any retirement credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending in accordance with Section 17-101 et seq. of Title 70 of the Oklahoma Statutes.

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

H. 1. A member of the Teachers' Retirement System of Oklahoma whose last service with the Teachers' Retirement System of Oklahoma was with an entity or institution within The Oklahoma State System of Higher Education, State Board of Education, State Board of Vocational and Technical Education, Oklahoma Department of Vocational and Technical Education, Oklahoma School of Science and Mathematics, Oklahoma Center for the Advancement of Science and Technology, State Department of Rehabilitation Services, Oklahoma State Regents for Higher Education, Department of Corrections, State Department of Education, Oklahoma Board of Private Vocational Schools, Board of Regents of Oklahoma Colleges, Oklahoma Student Loan Authority, or the Teachers' Retirement System of Oklahoma, may elect to receive credit for those years of service accumulated by the member in the Teachers' Retirement System of Oklahoma, pursuant to this subsection. A member shall be eligible to elect to transfer credit for such years of service from the Teachers' Retirement System of Oklahoma to the Oklahoma Public Employees Retirement System if:

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

- b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer such retirement credit. The notice shall include a list of the years to be transferred, and
- c. the member is not receiving or eligible to receive retirement credit or benefits from such service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection shall have all service credit with the Teachers' Retirement System of Oklahoma canceled which is transferred to the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the "sending system" shall mean the Teachers' Retirement System of Oklahoma. The "receiving system" shall mean the Oklahoma Public Employees Retirement System. Within thirty (30) days after notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules, send to the receiving system all employer and employee contributions made on behalf of the member which were made to the sending system plus an additional amount of earnings based on the actuarial assumed rate of the sending system. Upon receipt of these contributions by the receiving system, the receiving system shall give credit to the transferring member in an amount equal to the years of service accrued in the sending system.

3. If the transferring member's normal retirement date calculation is based upon the sum of the member's age and number of years of credited service totaling eighty (80) in the sending system, then the member shall retain such calculation in the receiving system.

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

I. A member of the System in the employment of the Governor, the State Senate or the House of Representatives, on or after July 1, 1999, may make an election prior to December 31, 2000, which shall be irrevocable and on a form prescribed for such purpose by the System, to continue participation in the System upon becoming employed by a participating employer of the Teachers' Retirement System of Oklahoma. The Board shall promulgate all rules necessary to implement the provisions of this subsection.

SECTION 6. This act shall become effective July 1, 2003.

SECTION 7. 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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