

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2691

By: Ferguson

COMMITTEE SUBSTITUTE

An Act relating to the Uniform Retirement System for Justices and Judges; amending 20 O.S. 2001, Sections 1103, 1103.1, as amended by Section 2, Chapter 438, O.S.L. 2002, 1108, as last amended by Section 15, Chapter 406, O.S.L. 2003 and 1111 (20 O.S. Supp. 2003, Sections 1103.1 and 1108), which relate to administration of the Uniform Retirement System for Justices and Judges; modifying provisions related to payment of certain benefit amount; providing for remittance of certain contributions; authorizing fee for late payment; providing for management of Uniform Retirement System for Justices and Judges; stating legal status of retirement system; authorizing certain powers; providing authority to Board of Trustees; providing for rules and regulations; authorizing adoption of actuarial tables; providing for effect of administrative decisions; prescribing penalties for certain conduct; authorizing correction of errors; authorizing recovery of overpayments; authorizing offsets under certain circumstances; prescribing procedures with respect to offset; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 20 O.S. 2001, Section 1103, is amended to read as follows:

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

he or she shall have eight percent (8%) of his or her current monthly salary withheld by the State of Oklahoma and deposited in said fund, unless the spouse waives such surviving spouse provisions in writing as provided in Section 1103A of this title. If a Justice or judge shall cease to be a Justice or judge of the above-mentioned courts, for any reason, before he or she has accumulated eight (8) years of accredited service, or dies after he or she has accumulated eight (8) years' service and having no survivor benefit, then all the contributions retained from his or her salary shall be paid to him or her or his or her named beneficiary, or his or her estate in case of no named beneficiary, and he or she shall have no further claim against the State of Oklahoma for retirement pay for his or her services to date.

B. Notwithstanding any provision to the contrary, the compensation taken into account for any judge or Justice in determining contributions 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.

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

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

SECTION 2. AMENDATORY 20 O.S. 2001, Section 1103.1, as amended by Section 2, Chapter 438, O.S.L. 2002 (20 O.S. Supp. 2003, Section 1103.1), is amended to read as follows:

Section 1103.1 A. On and after January 1, 2001, the Administrative Director of the Courts, in addition to the members' contributions, shall transfer monthly amounts for deposit in the State Judicial Retirement Fund as set out in Section 1309 of Title 20 of the Oklahoma Statutes equal to two percent (2.0%) of the monthly total actual paid gross salaries of the members of the Uniform Retirement System for Justices and Judges. Effective July 1, 2005, such amounts transferred by the Administrative Director of the Courts shall be as follows:

<u>Fiscal Year Ending</u>	<u>Percentage of Contribution</u>
June 30, 2006	3.0%
June 30, 2007	4.0%
June 30, 2008	5.5%
June 30, 2009	7.0%
June 30, 2010	8.5%
June 30, 2011	10.0%
June 30, 2012	11.5%
June 30, 2013	13.0%
June 30, 2014	14.5%
June 30, 2015	16.0%
June 30, 2016	17.5%
June 30, 2017	19.0%
June 30, 2018	20.5%
June 30, 2019 and thereafter	22.0%

B. Regardless of the contribution rate as set out in subsection A of this section, the State Judicial Retirement Fund shall not be allowed to have a funded ratio below one hundred percent (100%). The Board of Trustees of the Oklahoma Public Employees Retirement System is authorized to adjust such contribution rate annually, upon

the consideration of an actuarial recommendation, to prevent a funded ratio below one hundred percent (100%). The Board of Trustees shall make an annual report concerning its decision to increase the contribution rate. The report shall be distributed to the Governor, the Chief Justice of the Supreme Court, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

C. The Administrative Director of the Courts shall remit to the System all required retirement contributions due on a monthly basis. All required court and employee contributions and supporting documentation are due and must be received by the System on or before the fifteenth day of the month following the month for which the contributions are due. Court and employee contributions remitted to the System after thirty (30) days from the above due date shall be subject to a monthly late charge of one and one-half percent (1 1/2%) of the unpaid balance to be paid by the Administrative Director of the Courts to the System.

SECTION 3. AMENDATORY 20 O.S. 2001, Section 1108, as last amended by Section 15, Chapter 406, O.S.L. 2003 (20 O.S. Supp. 2003, Section 1108), is amended to read as follows:

Section 1108. A. The Board of Trustees of the Oklahoma Public Employees Retirement System shall have the responsibility for management of the Uniform Retirement System for Justices and Judges and the State Judicial Retirement Fund. All benefits payable under The Uniform Retirement System for Justices and Judges, refunds of contributions and overpayments, purchases or investments under the law, and all expenses in connection with the System shall be paid from the Oklahoma Judicial Retirement Fund. The State Judicial Retirement Fund shall be invested and managed in the same manner as now or hereinafter provided by law for the investment and management of funds belonging to the Oklahoma Public Employees Retirement System. The Uniform Retirement System for Justices and Judges shall

be an instrumentality of the State of Oklahoma. 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, its officers, employees, and agents to carry out fully and effectively the purposes and intent of this act.

1. The Board shall distribute the corpus and income of the System to the members and their beneficiaries in accordance with the System's law. At no time prior to the satisfaction of all liabilities with respect to members and their beneficiaries shall any part of the corpus and income be used for, or diverted to, purposes other than the exclusive benefit of the members and their beneficiaries.

2. The Board may not engage in a transaction prohibited by Section 503(b) of the federal Internal Revenue Code.

3. The Board of Trustees shall be responsible for the policies and rules for the general administration of the System, subject to the provisions of this act. Except as specifically provided in this act, the Uniform Retirement System for Justices and Judges shall generally be managed in the same manner as now or hereinafter provided by law or by rule for the management of the Oklahoma Public Employees Retirement System.

4. The Board shall establish rules and regulations for the administration of the System and for the transaction of its business consistent with law, which rules and regulations shall be promulgated in compliance with the Administrative Procedures Act.

5. The Board may adopt all necessary actuarial tables to be used in the operation of the System as recommended by the actuary and may compile such additional data as may be necessary for required actuarial valuation calculations.

6. All decisions of the Board as to questions of fact shall be final and conclusive on all persons except for the right of review

as provided by law and except for fraud or such gross mistake of fact as to have effect equivalent to fraud.

7. Any person who shall knowingly make any false statement, or who shall falsify or permit to be falsified any record necessary for carrying out the intent of this act for the purpose of committing fraud, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment for not exceeding one (1) year. Should any error in any records of the Uniform Retirement System for Justices and Judges result in any member or beneficiary receiving more or less than he would have been entitled to receive had the records been correct, the Board shall correct such error, and, as far as practicable, make future payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was entitled shall be paid, and to this end, may recover any overpayments.

B. The Board of Trustees of the Oklahoma Public Employees Retirement System shall compile a quarterly financial report of all the funds of the State Judicial Retirement Fund 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 of Trustees shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the Board of Trustees with respect to the State Judicial Retirement Fund. 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.

C. There is hereby created the Retirement Medical Benefit Fund. The fund shall be maintained as a subaccount of the State Judicial Retirement Fund. The Retirement Medical Benefit Fund is composed of all assets which may be contributed to this subaccount to pay the retirement system's portion of the monthly retiree health insurance premium benefit described by Section 1316.2 of Title 74 of the Oklahoma Statutes. All such allocated assets and any earnings thereon in the Retirement Medical Benefit Fund shall be held for the exclusive purpose of providing retiree medical benefits. The Retirement Medical Benefit Fund is to be administered in accordance with the requirements of Section 401(h) of the Internal Revenue Code of 1986, as amended from time to time. The Board of Trustees may promulgate such rules as are necessary to implement the funding and administration of the fund pursuant to the provisions of this subsection.

D. After July 1 and before December 1 of each year, the Board of Trustees of the Oklahoma Public Employees Retirement System 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 B 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 overfunded status, contributions and any other information deemed relevant by the Board of Trustees. 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. In order to standardize the information and analysis of the financial condition of the System, the Board shall provide information regarding the financial and actuarial condition of the System using assumptions or requirements as hereinafter required for the report stating the condition of the System as of July 1, 2002, and for each subsequent reporting date, which information shall be contained in an appendix or addendum to the annual report. For purposes other than the reporting requirements contained in the appendix or addendum, all actuarial and economic assumptions shall be those assumptions adopted by the System in its annual actuarial valuation. The appendix or addendum shall contain a statement of the financial condition of the System:

1. Using an assumed rate of return of seven and one-half percent (7.5%), net of investment expenses, per annum, compounded annually;

2. Using an actuarial assumption regarding cost-of-living adjustments for the System of two percent (2%) annually;

3. That relies upon the use of appropriate preretirement, postretirement and disability retirement information using generational projections taken from the RP-2000 Mortality Tables, published by the Society of Actuaries;

4. Which accurately and completely summarizes all sources of system assets, other than employee contributions, which shall include, but not be limited to, the total of all employer contributions, any dedicated tax or fee revenue of whatever kind or however denominated, and the total amount of any other source of revenue which accrues to the System, other than return on

investments, such as federal monies used for the purpose of making employer contributions; and

5. Using an assumption that the unfunded actuarial accrued liabilities of the System are amortized over a period of thirty (30) years, in a manner consistent with the Governmental Accounting Standards Board Statement Number 25.

SECTION 4. AMENDATORY 20 O.S. 2001, Section 1111, is amended to read as follows:

Section 1111. A. Except as otherwise provided by this section, any annuity, benefit, fund, property or right created by or accruing to any person under any provision of The Uniform Retirement System for Justices and Judges is hereby made and declared exempt from and not subject to execution, garnishment, or attachment or any other process or claim whatsoever, and shall be unassignable except as specifically provided by said act. Notwithstanding the foregoing, the Board of Trustees may offset any benefits of a member or beneficiary to pay a judgment or settlement against a member or beneficiary for a crime involving the System, for a fraud or breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or a beneficiary, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986. The offset applies to any benefits which may otherwise be payable to a member or beneficiary from any plan or fund which is administered by the Board of Trustees.

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 Uniform Retirement System for Justices and Judges 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 Uniform Retirement System for Justices and Judges to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

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

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

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

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member and shall not attach to or require the payment of any amount of benefits related to a deferred compensation plan or program authorized by Section 1701 et seq. of Title 74 of the Oklahoma Statutes.

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

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

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

SECTION 5. This act shall become effective July 1, 2004.

SECTION 6. 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.

49-2-8443      MAH      02/11/04