

ENROLLED SENATE
BILL NO. 1422

By: Corn of the Senate

and

Ferguson, Smithson and
Nance of the House

An Act relating to retirement; amending 11 O.S. 2001, Sections 50-103.1, as amended by Section 1, Chapter 51, O.S.L. 2003, 50-105.1, 50-111.1, as amended by Section 2, Chapter 137, O.S.L. 2003, 50-111.3, as last amended by Section 1, Chapter 343, O.S.L. 2003, 50-114.1, as amended by Section 7, Chapter 137, O.S.L. 2003, 50-115, as amended by Section 2, Chapter 340, O.S.L. 2002, 50-117, 50-124, and 50-134, as amended by Section 9, Chapter 137, O.S.L. 2003 (11 O.S. Supp. 2003, Sections 50-103.1, 50-111.1, 50-111.3, 50-114.1, 50-115 and 50-134), which relate to the Oklahoma Police Pension and Retirement System; providing gender-neutral references; deleting reference; deleting duplicate language; clarifying definition; allowing interest payment on refund of certain accumulated contributions; providing deferred option survivor benefit; requiring certain length of marriage for certain benefit; providing exception; deleting language relating to certain survivor benefit; amending outline; providing for certain beneficiary benefit; requiring compliance with certain agreements; providing eligibility criteria; moving language concerning certain offset; allowing Board to pay certain other compensation from the Fund in conjunction with certain fees, commissions and salaries; requiring the Executive Director to make certain transmission of communications; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 50-103.1, as amended by Section 1, Chapter 51, O.S.L. 2003 (11 O.S. Supp. 2003, Section 50-103.1), is amended to read as follows:

Section 50-103.1 A. There shall be an Oklahoma Police Pension and Retirement Board which shall be composed of thirteen (13) members as follows:

1. Seven members shall be elected as follows:

- a. One member shall be elected to represent State Board District 1. State Board District 1 shall include that area of the state, except for any area comprising Oklahoma City, that is north of Interstate Highway 40 and west of Interstate Highway 35;
- b. One member shall be elected to represent State Board District 2. State Board District 2 shall include that area of the state, except for any area comprising Oklahoma City, that is south of Interstate Highway 40 and west of Interstate Highway 35;
- c. One member shall be elected to represent State Board District 3. State Board District 3 shall include that area of the state, except for any area comprising Oklahoma City or Tulsa, that is north of Interstate Highway 40 and east of Interstate Highway 35;
- d. One member shall be elected to represent State Board District 4. State Board District 4 shall include that area of the state, except for any area comprising Oklahoma City, that is south of Interstate Highway 40 and east of Interstate Highway 35;
- e. One member shall be elected to represent State Board District 5. State Board District 5 shall include that area of the state comprising the City of Tulsa;
- f. One member shall be elected to represent State Board District 6. State Board District 6 shall include that area of the state comprising the City of Oklahoma City; and
- g. One member shall be elected to represent State Board District 7. State Board District 7 shall include the entire area of the state.

The members elected to represent State Board Districts 1 through 6 shall be active members of the System and work for a participating municipality whose police department is physically located within the State Board District. The member elected to represent State Board District 7 shall be a retired member of the System. Elections for the State Board Districts shall be held within six (6) months of the date of the expiration of the term of office of a member or of the date a vacancy occurs on such dates that are set by the State Board. The initial term of office for State Board Districts 2, 5 and 7 shall begin on July 1, 1989. The initial term of office for State Board Districts 3 and 6 shall begin on July 1, 1990. The initial term of office for State Board Districts 1 and 4 shall begin on July 1, 1991. The term of office of the elected members shall be three (3) years. Only members of the System working for a participating municipality whose police department is physically located within the respective State Board Districts may participate in the election process for State Board Districts 1 through 6. Only retired members of the System may participate in the election process for State Board District 7.

2. One member shall be appointed by the Speaker of the House of Representatives;

3. One member shall be appointed by the President Pro Tempore of the Senate;

4. One member shall be appointed by the Governor;

5. One member shall be appointed by the President of the Oklahoma Municipal League;

6. One member shall be the State Insurance Commissioner or ~~his~~ the Commissioner's designee; and

7. One member shall be the Director of State Finance or ~~his~~ the Director's designee.

B. 1. The term of office of the member appointed to the State Board by the Speaker of the House of Representatives and the term of office of the member appointed to the State Board by the President Pro Tempore of the Senate who are members of the State Board on the operative date of this act, shall expire on January 3, 1989. The members thereafter appointed by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall serve terms of office of four (4) years.

2. The term of office of the member appointed by the Governor who is a member of the State Board on the operative date of this act shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which is coterminous with the term of office of the office of the appointing authority.

3. The initial term of office of the member appointed by the President of the Oklahoma Municipal League shall expire on July 1, 1990. The members thereafter appointed by the President of the Oklahoma Municipal League shall serve terms of office of four (4) years.

4. Any vacancy that occurs shall be filled for the unexpired term in the same manner as the office was previously filled.

C. The members appointed to the State Board by the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Governor and the President of the Oklahoma Municipal League or who are designees of an ex officio member of the State Board shall:

1. Have demonstrated professional experience in investment or funds management, public funds management, public or private pension fund management or retirement system management;

2. Have demonstrated experience in the banking profession and have demonstrated professional experience in investment or funds management;

3. Be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or

4. Be licensed by the Oklahoma Accountancy Board to practice in this state as a public accountant or a certified public accountant.

The appointing authorities, in making appointments that conform to the requirements of this subsection, shall give due consideration to balancing the appointments among the criteria specified in paragraphs 1 through 4 of this subsection.

D. No member of the State Board shall be a lobbyist registered in this state as provided by law.

E. Notwithstanding any of the provisions of this section to the contrary, any person serving as an appointed member of the State Board on the operative date of this act shall be eligible for reappointment when the term of office of the member expires.

F. The State Board shall elect one of its members as Chairman at its annual meeting. The Chairman shall preside over meetings of the State Board and perform such other duties as may be required by the State Board. The State Board shall also elect another member to serve as Vice Chairman, and the Vice Chairman shall perform duties of Chairman in the absence of the latter or upon the Chairman's inability or refusal to act.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 50-105.1, is amended to read as follows:

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

B. The Executive Director shall recommend to the State Board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this article, and the policy direction of the State Board. Upon approval of the organizational plan by the State Board, the Executive Director may employ such persons as are deemed necessary to administer this article.

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

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

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

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

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

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

SECTION 3. AMENDATORY 11 O.S. 2001, Section 50-111.1, as amended by Section 2, Chapter 137, O.S.L. 2003 (11 O.S. Supp. 2003, Section 50-111.1), is amended to read as follows:

Section 50-111.1 A. A member who terminates ~~his~~ service before normal retirement date, other than by death or disability shall, upon application filed with the State Board, be refunded from the Fund an amount equal to the accumulated contributions the member has made to the Fund, but excluding any interest or any amount contributed by the municipality or state. If a member withdraws ~~his~~ the member's accumulated contributions, such member shall not have any recourse against the System for any type of additional benefits including, but not limited to, disability benefits. If a member has completed ten (10) years of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving the member's accumulated contributions.

If the member who has completed ten (10) or more years of credited service elects the vested benefit, the member shall be entitled to a monthly retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of credited service.

If a terminated member has elected a vested benefit and subsequently returns to work as a police officer of a participating

municipality, their vested benefit will be set aside and prior credited service will be reinstated.

B. If a member who terminates employment and elects a vested benefit dies prior to being eligible to receive benefits, the member's beneficiary shall be entitled to the member's normal monthly accrued retirement benefits on the date the deceased member would have been eligible to receive the benefit.

C. Whenever a member has terminated or hereafter terminates covered employment and has withdrawn or hereafter withdraws the member's accumulated contributions and has rejoined or hereafter rejoins the System, the member, upon proper application and approval by the Board, may pay to the System the sum of the accumulated contributions the member has withdrawn or hereafter withdraws plus ten percent (10%) annual interest from the date of withdrawal and shall receive the same benefits as if the member had never withdrawn the contributions. Effective July 1, 2003, a lump-sum payment for repayment of any amounts received because of a member's prior termination may be repaid by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. Those members who at the time of termination of employment could not withdraw any of their accumulated contributions shall receive credited service for the time employed as an officer prior to any such termination upon proper application and approval by the Board. To receive credit for such service, all required contributions and interest shall be paid within ninety (90) days of Board approval of the application. The provisions of this subsection shall not apply to any member who is receiving benefits from the System as of July 1, 1987.

D. If an active member dies and does not leave a beneficiary, the accumulated contributions made to the System by the member shall be paid to the estate of the member.

SECTION 4. AMENDATORY 11 O.S. 2001, Section 50-111.3, as last amended by Section 1, Chapter 343, O.S.L. 2003 (11 O.S. Supp. 2003, Section 50-111.3), is amended to read as follows:

Section 50-111.3 A. In lieu of terminating employment and accepting a service retirement pension pursuant to Section 50-114 of this title, any member of the Oklahoma Police Pension and Retirement System who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension may elect to participate in the Oklahoma Police Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

B. For purposes of this section, creditable service shall include service credit reciprocally recognized pursuant to Section 50-101 et seq. of this title but for eligibility purposes only.

C. The duration of participation in the Oklahoma Police Deferred Option Plan for a member shall not exceed five (5) years. Participation in the Oklahoma Police Deferred Option Plan must begin the first day of a month and end on the last day of a month. At the conclusion of a member's participation in the Oklahoma Police

Deferred Option Plan, the member shall terminate employment with all participating municipalities as an officer, and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may receive in-service distributions of such member's accrued monthly retirement benefit from the System if such member is reemployed by a participating municipality only if such reemployment is as a police chief or in a position not covered under the System. ~~Such a member may receive in-service distributions of such member's accrued monthly retirement benefit from the System if such member is reemployed by a participating municipality only if such reemployment is as a police chief or in a position not covered under the System.~~

D. When a member begins participation in the Oklahoma Police Deferred Option Plan, the contribution of the employee shall cease. The employer contributions shall continue to be paid in accordance with Section 50-109 of this title. Municipal contributions for employees who elect the Oklahoma Police Deferred Option Plan shall be credited equally to the Oklahoma Police Pension and Retirement System and to the Oklahoma Police Deferred Option Plan. The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the Oklahoma Police Deferred Option Plan account.

E. 1. A member who participates in this plan shall be eligible to receive cost of living increases.

2. A member who participates in this plan shall earn interest at a rate of two percentage points below the rate of return of the investment portfolio of the System, but no less than the actuarial assumed interest rate as certified by the actuary in the yearly evaluation report of the actuary. The interest shall be credited to the individual account balance of the member on an annual basis.

F. A participant in the Oklahoma Police Deferred Option Plan shall receive, at the option of the participant:

1. A lump sum payment from the account equal to the option account balance of the participant, payable to the participant;

2. A lump sum payment from the account equal to the option account balance of the participant, payable to the annuity provider which shall be selected by the participant as a result of the research and investigation of the participant; or

3. Any other method of payment if approved by the State Board.

G. If the participant dies during the period of participation in the Oklahoma Police Deferred Option Plan, a lump sum payment equal to the account balance of the participant shall be paid in accordance with Section 50-115.2 of this title.

H. In lieu of participating in the Oklahoma Police Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section, a member may elect to participate in the Oklahoma Police Deferred Option Plan pursuant to this subsection as follows:

1. For purposes of this subsection, the following definitions shall apply:

- a. "back drop date" means the member's normal retirement date or the date five (5) years before the member elects to participate in the Oklahoma Police Deferred Option Plan, whichever date is later,
- b. "termination date" means the date the member elects to participate in the Oklahoma Police Deferred Option Plan pursuant to this subsection, and the date the member terminates employment with all participating municipalities as an active police officer, such termination has at all times included reemployment of a member by a participating municipality only if such reemployment is as a police chief or in a position not covered under the System,
- c. "earlier attained credited service" means the credited service earned by a member as of the back drop date, and earlier attained credited service cannot be reduced to less than twenty (20) years of credited service, and
- d. "deferred benefit balance" means all monthly retirement benefits that would have been payable had the member elected to cease employment on the back drop date and receive a service retirement from the back drop date to the termination date, all of the member's contributions and one-half (1/2) of the employer contributions from the back drop date to the termination date, with interest based on how the benefit would have accumulated as if the member had participated in the Oklahoma Police Deferred Option Plan pursuant to subsections A, B, C, D and E of this section from the back drop date to the termination date; ~~and~~

2. At the termination date, the monthly pension benefit shall be determined based on earlier attained credited service and on the final average salary as of the back drop date. The member's individual deferred option account shall be credited with an amount equal to the deferred benefit balance; the member shall terminate employment with all participating municipalities as a police officer and shall start receiving the member's accrued monthly retirement benefit from the System. ~~The member shall, upon application filed with the State Board, be refunded from the fund an amount equal to the accumulated contributions the member made to the fund from the back drop date to the termination date, but excluding any interest.~~ The provisions of subsections B, C, E, F and G of this section shall apply to this subsection. A member shall not participate in the Oklahoma Police Deferred Option Plan pursuant to this subsection if the member has elected to participate in the Oklahoma Police Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section; and

3. If a member who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension dies prior to terminating employment, the surviving spouse shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Police Deferred Option Plan in accordance with this subsection on the day immediately preceding the death. The surviving spouse must have been married to the member for the thirty (30) continuous months preceding the member's death; provided, the surviving spouse of a member who died while in, and as a consequence of, the performance of the member's duty for a participating municipality shall not be subject to the thirty-month marriage requirement for this election.

SECTION 5. AMENDATORY 11 O.S. 2001, Section 50-114.1, as amended by Section 7, Chapter 137, O.S.L. 2003 (11 O.S. Supp. 2003, Section 50-114.1), is amended to read as follows:

Section 50-114.1 Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member in the System shall be subject to the limitations of Section 415 of the Internal Revenue Code of 1986 in accordance with the provisions of paragraphs 1 and 2 of this section.

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

- a. One Hundred Sixty Thousand Dollars (\$160,000.00), effective January 1, 2002, adjusted for increases in the cost of living, as prescribed by the Secretary of the Treasury or ~~his~~ the Secretary's delegate, effective January 1 of each calendar year and applicable to the limitation year ending with or within such calendar year.
- b. The limitations of this subparagraph shall apply only to limitation years beginning prior to January 1, 1995. One hundred percent (100%) of the average earnings of the member for the three (3) consecutive calendar years, while a member in the System, in which the member's earnings were the highest. For purposes of this subparagraph, earnings for any limitation year shall be the earned income of the member, wages, salaries, and fees for professional services, and other amounts received for personal services actually rendered in the course of employment with a participating municipality, provided such amounts are actually paid or includable in gross income during such year. Earnings shall exclude the following:
 - (1) contributions by a participating municipality to a plan of deferred compensation which are not included in the gross income of the member for the taxable year in which contributed or any distributions from a funded plan of deferred compensation, and

- (2) other amounts which received special tax benefits, or contributions made by a participating municipality, whether or not under a salary reduction agreement, towards the purchase of an annuity described in Section 403(b) of the Internal Revenue Code of 1986, as amended, whether or not the amounts are actually excludable from the gross income of the member.
- c. Except as provided in subparagraph e of this paragraph, the limitations specified in subparagraphs a and b of this paragraph shall not be applicable with respect to any member whose total annual accrued retirement benefit payable from the System is less than Ten Thousand Dollars (\$10,000.00) and who has not at any time participated in any contribution plan, within the meaning of Section 415(k) of the Internal Revenue Code of 1986, maintained by a participating municipality.
- d. If a member has less than ten (10) years of participation in the System and all predecessor municipal police pension and retirement systems, the dollar limitation otherwise applicable under subparagraph a of this paragraph shall be reduced by multiplying such limitation by a fraction, the numerator of which is the number of the years of participation in the System of the member, but never less than one (1), and the denominator of which is ten (10). This subparagraph, to the extent required by the Secretary of the Treasury, shall be applied separately to each change in benefit structure hereunder.
- e. Effective for limitation years beginning on or after January 1, 1995, if a member has been credited with less than ten (10) years of credited service, the dollar amount otherwise applicable under subparagraph c of this paragraph shall be reduced by multiplying such dollar amount by a fraction, the numerator of which is the number of the years of credited service of the member, but never less than one (1), and the denominator of which is ten (10).
- f. The limitations specified in this section shall apply to a straight life annuity with no ancillary benefits and to an annuity that constitutes a qualified joint and survivor annuity. If payment is in a different form, the amount thereof shall be adjusted to be the actuarial equivalent of a single life annuity and the limitations shall be applied to such adjusted amount. Such adjustment shall be based on the mortality tables and interest rates described in subdivisions (a), (b) and (c) of division (1) of this subparagraph.

- (1) If payment begins before the member reaches age sixty-two (62) years of age, the limitation in subparagraph a of this paragraph shall be reduced on an actuarially equivalent basis; provided however, prior to January 1, 2002, if such payment begins after the member reaches fifty-five (55) years of age, the reduced limit shall not be less than Seventy-five Thousand Dollars (\$75,000.00) and, if payment begins prior to the member reaching fifty-five (55) years of age, the reduced limit shall not be less than the actuarial equivalent of the Seventy-five Thousand Dollar (\$75,000.00) limit for age fifty-five (55); provided further, that in no event shall such amount be reduced below Fifty Thousand Dollars (\$50,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of Treasury, or ~~his~~ the Secretary's delegate.
- (a) For limitation years beginning before January 1, 1999, the interest rate to be used to determine such actuarial equivalent amount in this division shall be the rate specified in the actuarial tables adopted by the State Board; however, the interest rate used in determining an actuarially equivalent pre-age-sixty-two amount shall not be less than five percent (5%).
- (b) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this division shall be determined using the prevailing commissioner's standard table described in Code Section 807(d)(5)(A), without regard to any other subparagraph of Code Section 807(d)(5), used to determine reserves for group annuity contracts issued on the date as of which the payment is being determined. Notwithstanding any other System provisions to the contrary, for distributions with annuity starting dates on or after December 31, 2002, the applicable mortality table used for purposes of adjusting any benefit or limitation under Sections 415(b)(2)(B), (C), or (D) of the Internal Revenue Code of 1986, as amended, is the table described in Rev. Rul. 2001-62. The interest rate shall be five percent (5%).
- (c) For limitation years beginning on or after January 1, 1997, if payment begins before the member reaches age sixty-two (62), the reductions in the limitations in this division shall not apply to a member who is a "qualified participant" as defined in

Section 415(b)(2)(H) of the Internal Revenue Code of 1986.

- (2) If payment begins after the member reaches age sixty-five (65) years of age, the limitation in subparagraph a of this paragraph shall be the actuarial equivalent of such amount otherwise applicable at the member reaching sixty-five (65) years of age.
 - (a) For limitation years beginning before January 1, 1999, the interest rate to be used to determine such actuarial equivalent amount in this division shall be the rate specified in the actuarial tables adopted by the State Board; however, the interest rate used in determining an actuarially equivalent post-age-sixty-five amount shall not be greater than five percent (5%).
 - (b) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this division shall use the mortality and interest rate basis provided in subdivision (b) of division (1) of this subparagraph.
- g. In no event shall the maximum annual accrued retirement benefit of a member allowable under this section be less than the annual amount of such accrued retirement benefit, including early pension and qualified joint and survivor annuity amounts, duly accrued by the member as of the last day of the limitation year beginning in 1982, or as of the last day of the limitation year beginning in 1986, whichever is greater, disregarding any plan changes or cost-of-living adjustments occurring after July 1, 1982, as to the 1982 accrued amount, and May 5, 1986, as to the 1986 accrued amount.
- h. Effective for years beginning after December 31, 1997, if a member purchases service pursuant to Section 50-111.2 and Section 50-111.4 of this title, which qualifies as "permissive service credit" pursuant to Section 415(n) of the Internal Revenue Code of 1986, as amended, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, may be met by either:
 - (1) treating the accrued benefit derived from such contributions as an annual benefit under paragraph 1 of this section, or
 - (2) treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code of 1986, as amended.

- i. Effective for years beginning after December 31, 1997, if a member repays to the System any amounts received because of ~~his~~ such member's prior termination pursuant to subsection C of Section 50-111.1 of this title, such repayment shall not be taken into account for purposes of Section 415 of the Internal Revenue Code of 1986, as amended, pursuant to Section 415(k) (3) of the Internal Revenue Code of 1986, as amended.

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

2. For distributions made in limitation years beginning on or after January 1, 2000, the combined limit of repealed Section 415(e) of the Internal Revenue Code of 1986, as amended, shall not apply.

3. The State Board is hereby authorized to revoke the special election previously made on June 19, 1991, under Internal Revenue Code Section 415(b) (10).

SECTION 6. AMENDATORY 11 O.S. 2001, Section 50-115, as amended by Section 2, Chapter 340, O.S.L. 2002 (11 O.S. Supp. 2003, Section 50-115), is amended to read as follows:

Section 50-115. A. The State Board is authorized to pay a disability benefit to a member of the System or a pension to the beneficiaries of such member eligible as hereinafter provided, not exceeding the accrued retirement benefit of the member, except as otherwise provided in this article. Such disability benefit shall be payable immediately upon determination of eligibility. Any preexisting condition identified at the time of any initial or subsequent membership shall be used to offset the percentage of impairment to the whole person in determining any disability benefit. Once the initial disability benefit has been awarded by the Board on the basis of the percentage of impairment to the whole person, the member shall have no further recourse to increase the awarded percentage of impairment.

B. In order for any member to be eligible for any disability benefit, or the member's beneficiaries to be eligible for a pension, the member must have complied with any agreement as to contributions by the member and other members to any funds of the System where said agreement has been made as provided by this article; and the State Board must find:

1. That the member incurred a permanent total disability or a permanent partial disability or died while in, and in consequence of, the performance of duty as an officer; or

2. That such member has served ten (10) years and incurred a permanent total disability or a permanent partial disability or has died from any cause.

C. In the event of the death of any member who has been awarded a disability benefit or is eligible therefor as provided in this article, the member's beneficiary shall be paid the benefit.

D. As of the date of determination by the State Board that a member has incurred a permanent in-line disability as a result of physical or mental causes, the member shall be awarded a benefit as follows:

1% to 49% impairment to whole person = 50% of the normal disability benefit

50% to 74% impairment to whole person = 75% of the normal disability benefit

75% to 99% impairment to whole person = 100% of the normal disability benefit.

E. If the participating municipality denies a disabled member the option of continuing employment instead of retiring on a disability pension, then the burden of proof rests with the participating municipality to show cause to the State Board that there is no position as a sworn officer within the police department of that municipality which the member can fill.

F. Upon determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and total and that the member has completed ten (10) years of credited service and is disabled by any cause, the member shall receive a disability benefit on the basis of the member's accrued retirement benefit.

G. Upon determination by the State Board that a member is physically or mentally disabled and that the disability is permanent and partial and that the member has completed ten (10) years of credited service as a member and is disabled from any cause, the member shall be awarded a disability benefit on the basis of the member's years of credited service as a member and the percentage of impairment to the whole person, as defined by the most current standards of the impairment as outlined in the "American Medical Association's Guides to the Evaluation of Permanent Impairment", on the basis of the following table:

1% to 24% impaired = 25% of accrued retirement benefit

25% to 49% impaired = 50% of accrued retirement benefit

50% to 74% impaired = 75% of accrued retirement benefit

75% to 99% impaired = 90% of accrued retirement benefit.

~~H. Upon determination by the State Board that a member has completed ten (10) years of credited service and dies from any cause, the member's beneficiary shall receive the member's accrued retirement benefit.~~

~~I.~~ Before making a finding as to the disability of a member, the State Board shall require that, if the member is able, the member shall make a certificate as to the disability which shall be subscribed and sworn to by the member. It shall also require a certificate as to such disability to be made by some physician licensed to practice in this state as selected by the State Board. The State Board may require other evidence of disability before making the disability benefit. The salary of any such member shall continue while the member is so necessarily confined to such hospital bed or home and necessarily requires medical care or professional nursing on account of such sickness or disability for a period of not more than six (6) months, after which said period the other provisions of this article may apply. The State Board, in making disability benefits, shall act upon the written request of the member or without such request, if it deem it for the good of the police department. Any disability benefits shall cease when the member receiving same shall be restored to active service at a salary not less than three-fourths (3/4) of the member's average monthly salary.

~~J. I.~~ Any member of a police department of any municipality who, in the line of duty, has been exposed to hazardous substances, including but not limited to chemicals used in the manufacture of a controlled dangerous substance or chemicals resulting from the manufacture of a controlled dangerous substance, or to blood-borne pathogens and who is later disabled from a condition that was the result of such exposure and that was not revealed by the physical examination passed by the member upon entry into the System shall be presumed to have incurred such disability while performing the officer's duties unless the contrary is shown by competent evidence. The presumption created by this subsection shall have no application whatever to any workers' compensation claim or claims, and it shall not be applied or be relied upon in any way in workers' compensation proceedings. All compensation or benefits due to any member pursuant to the presumption created by this subsection shall be paid solely by the system.

SECTION 7. AMENDATORY 11 O.S. 2001, Section 50-117, is amended to read as follows:

Section 50-117. A. The State Board is authorized to pay a pension to the beneficiary of any member where requirements for eligibility for such pension are met as ~~in this section~~ provided in this subsection. The pension shall be in an amount as the State Board shall provide not exceeding the accrued retirement benefit or normal disability benefit. Before any beneficiary of a member shall be entitled to any pension the member must have complied with any agreement as to contributions by the member and other members to the System where said agreement has been made as provided by this article, and the State Board must find that:

1. The member lost his or her life while in, and in consequence of, the performance of the member's duty and through no negligence on the member's part; and

2. ~~That the~~ The member left a beneficiary.

B. The State Board is authorized to pay a pension to the beneficiary of any member where requirements for eligibility for such pension are met as provided in this subsection. The member's beneficiary shall receive the member's accrued retirement benefit. Before any beneficiary of a member shall be entitled to any pension the member must have complied with any agreement as to contributions by the member and other members to the System where said agreement has been made as provided by this article, and the State Board must find that:

1. The member completed ten (10) years of credited service and died from any cause; and

2. The member left a beneficiary.

C. If such finding is made, a pension shall be allowed, limited as provided in this article. The pension shall commence to the beneficiary of the member within one (1) year of the death of the member and, except as otherwise provided in this section, shall be payable over the life of the beneficiary. If the beneficiary is a child of the member, the pension payments shall cease automatically when the child reaches eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education.

If the beneficiary is a surviving spouse of a member who remarried prior to June 7, 1993, and was a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for the employer, the surviving spouse shall be eligible to receive the pension benefits provided for in this section. To receive the pension benefits provided for in this section the surviving spouse falling within this section shall submit a written request for such benefits to the Oklahoma Police Pension and Retirement System. The Oklahoma Police Pension and Retirement System shall approve requests by surviving spouses meeting the requirements of this section. Upon approval by the Oklahoma Police Pension and Retirement System, the surviving spouse shall be entitled to the pension benefits provided for in this section beginning from the date of approval forward. Pension benefits provided to surviving spouses falling within this section shall not apply to alter any amount of pension benefits paid or due prior to the Oklahoma Police Pension and Retirement System's approval of the remarried surviving spouse's written request for benefits.

No surviving spouse shall receive benefits from this section, Section 49-113 of this title, or Section 2-306 of Title 47 as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

SECTION 8. AMENDATORY 11 O.S. 2001, Section 50-124, is amended to read as follows:

Section 50-124. A. Except as otherwise provided by this section, no portion of any of the funds of the System shall, either before or after any order made by the State Board for payment to any person entitled to a pension or allowance, be held, seized, taken, subjected to, or detained, or levied on by virtue of any garnishment, attachment, execution, injunction, or other order or decree or any process or proceeding whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against any such person entitled to payment, nor shall said payments or any claim thereto be directly or indirectly assigned, and any attempt to assign or transfer the same shall be void. The said funds shall be held, invested, secured and distributed for the purposes named in this article, and for no other purpose whatever. ~~Notwithstanding the foregoing, effective August 5, 1997, the State Board may approve any offset of a member's benefit to pay a judgment or settlement against the member for a crime involving the System or for a breach of the member's fiduciary duty to the System, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.~~

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

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

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

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

5. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,

- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

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

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

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

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

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

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

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

C. Notwithstanding any other provision of law to the contrary, effective August 5, 1997, the State Board may approve any offset of a member's benefit to pay a judgment or settlement against the member for a crime involving the System or for a breach of the member's fiduciary duty to the System, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.

SECTION 9. AMENDATORY 11 O.S. 2001, Section 50-134, as amended by Section 9, Chapter 137, O.S.L. 2003 (11 O.S. Supp. 2003, Section 50-134), is amended to read as follows:

Section 50-134. The State Board shall be responsible for the operation, administration and management of the System.

In order to carry out the responsibilities imposed upon them by law, the State Board shall appoint such advisors, consultants, agents and employees, each of whom may be such individual, firm or corporation as shall be deemed necessary or advisable and approved by the State Board. Such individuals, firms or corporations may be retained or employed in such manner and upon such terms as shall seem appropriate and proper to the State Board, either by contract or retainer, by regular full- or part-time employment or by such other arrangements as shall be satisfactory to the State Board and shall be subject to such bonding requirements as shall be established by the State Board. The fees, commissions, salaries ~~or~~ and other compensation of such advisors, consultants, agents or employees shall be paid by the State Board from the Fund.

The Executive Director shall perform the duties and services indicated below and such other duties and services as may, from time to time, be requested or directed by the State Board, and who shall be responsible to the State Board and shall attend all regular meetings of the State Board.

The Executive Director shall be responsible to the State Board for the day-to-day operation of the System, and shall on behalf of the State Board:

1. Be responsible for the transmittal of communications from the State Board to the participating municipalities;

2. Receive payroll and employment reports from participating municipalities and maintain current employment, earnings and contribution data on each covered member of each participating municipality;

~~2.~~ 3. Coordinate the activities of all other advisors, consultants, agents or employees appointed by the State Board;

~~3.~~ 4. Maintain all necessary records reflecting the operation and administration of the System and submit detailed reports thereof to the State Board at each regular meeting of the State Board and at such other time or times as requested by the State Board;

~~4.~~ 5. Process all claims for payment of benefits or expenses for approval by the State Board; and

~~5.~~ 6. File on behalf of the State Board such reports or other information as shall be required by any state or federal law or regulations.

SECTION 10. 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 resolution shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 25th day of May, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2004.

Presiding Officer of the House
of Representatives