

ENROLLED SENATE
BILL NO. 665

By: Corn of the Senate

and

Brannon, Roan and Smithson
of the House

An Act relating to the Oklahoma Police Pension and Retirement System; amending 11 O.S. 2001, Section 50-101, as amended by Section 1, Chapter 340, O.S.L. 2002 (11 O.S. Supp. 2002, Section 50-101), which relates to definitions; deleting definition of "local board"; amending references; providing qualified transportation fringes be included in base salary for certain purposes; amending dates and references; increasing annual compensation limit; deleting references to repealed and revised federal laws; amending definition of "paid base salary"; amending 11 O.S. 2001, Sections 50-111.1, 50-111.3, 50-111.4, 50-112, 50-114, 50-114.1, 50-114.2, and 50-134, which relate to the Oklahoma Police Pension and Retirement System; setting aside vested benefit; providing for reinstatement of prior credited service upon return to work of certain members; allowing certain trustee-to-trustee transfers; providing for in-service distributions under certain circumstances; deleting obsolete language; allowing trustee-to-trustee transfers from certain types of plans; allowing member lump-sum installment payments of certain balances be made from certain types of plans; clarifying participation requirement; providing for treatment of certain in-service distributions; applying minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; deleting reference to "local board"; clarifying certain payment of benefit upon death of beneficiary; amending the defined benefit annual limitation amount; amending references; setting date for application of certain benefit limitation floor; deleting obsolete reference and requiring the System to use certain mortality table; providing for treatment of the combined limit of repealed Section 415(e) of the Internal Revenue Code of 1986, as amended; deleting obsolete provisions based upon repealed Section 415(e) of the Internal Revenue Code of 1986, as amended; amending definitions of "Eligible Rollover Distribution" and "Eligible Retirement Plan"; amending references; deleting reference to "local board"; repealing 11 O.S. 2001, Sections 50-106.1, 50-106.2, and 50-108, which relate to "local boards"; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 50-101, as amended by Section 1, Chapter 340, O.S.L. 2002 (11 O.S. Supp. 2002, Section 50-101), is amended to read as follows:

Section 50-101. As used in this article:

1. "System" means the Oklahoma Police Pension and Retirement System and all predecessor municipal Police Pension and Retirement Systems;
2. "Article" means Article 50 of this title;
3. "State Board" means the Oklahoma Police Pension and Retirement Board;
4. ~~"Local board" means the local police pension and retirement boards;~~
5. "Fund" means the Oklahoma Police Pension and Retirement Fund;
6. 5. "Officer" means any duly appointed and sworn full-time officer of the regular police department of a municipality whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, enforce all laws and municipal ordinances of this state, and any political subdivision thereof, and who is authorized to bear arms in the execution of such duties;
7. 6. "Member" means all eligible officers of a participating municipality and any person hired by a participating municipality who is undergoing police training to become a permanent police officer of the municipality. Effective July 1, 1987, a member does not include a "leased employee" as defined under Section 414(n)(2) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1999, any individual who agrees with the participating municipality that the individual's services are to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction. A member shall include eligible commissioned officers of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Alcoholic Beverage Laws Enforcement Commission who elect to participate in the System pursuant to Section 50-111.5 of ~~Title 11 of the Oklahoma Statutes~~ this title;
8. 7. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day of the month coinciding with or following the date the member completes twenty (20) years of credited service. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day of the month after the member terminates employment with more than twenty (20) years of credited service;

~~9.~~ 8. "Credited service" means the period of service used to determine the eligibility for and the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor municipal systems as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor municipal systems which was credited under the predecessor municipal systems or credited service granted by the State Board;

~~10.~~ 9. "Participating municipality" means a municipality which is making contributions to the System on behalf of its officers. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Alcoholic Beverage Laws Enforcement Commission shall be treated in the same manner as a participating municipality only regarding those members who elect to participate in the System pursuant to Section 50-111.5 of ~~Title 11 of the Oklahoma Statutes~~ this title;

~~11.~~ 10. "Permanent total disability" means incapacity due to accidental injury or occupational disease, to earn any wages in the employment for which the member is physically suited and reasonably fitted through education, training or experience. Further, the member must be declared one hundred percent (100%) impaired as defined by the "American Medical Association's Guides to the Evaluation of Permanent Impairment" on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

~~12.~~ 11. "Permanent partial disability" means permanent disability which is less than permanent total disability as defined in this section. The member must be declared no greater than ninety-nine percent (99%) impaired as defined by the "American Medical Association's Guides to the Evaluation of Permanent Impairment" on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

~~13.~~ 12. "Permanent in-line disability" means incapacity to earn any wages as a certified, commissioned police officer due to accidental injury or occupational disease, incurred while in, and in consequence of, the performance of duty as an officer;

~~14.~~ 13. "Beneficiary" means a member's surviving spouse or any surviving children, including biological and adopted children, at the time of the member's death. The surviving spouse must have been married to the member for the thirty (30) continuous months immediately preceding the member's death, provided a surviving spouse of a member who died while in, and as a consequence of, the performance of the member's duty for a participating municipality, shall not be subject to the thirty-month marriage requirement for survivor benefits. A surviving child of a member shall be a beneficiary until reaching eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Any child adopted by a member after the member's

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

~~15.~~ 14. "Executive Director" means the managing officer of the System employed by the State Board;

~~16.~~ 15. "Eligible employer" means any municipality with a municipal police department;

~~17.~~ 16. "Entry date" means the date as of which an eligible employer joins the System. The first entry date pursuant to this article shall be January 1, 1981;

~~18.~~ 17. "Final average salary" means the average paid ~~gross~~ base salary of the member for normally scheduled hours over the highest salaried thirty (30) consecutive months of the last sixty (60) months of credited service.

a. ~~Gross Base~~ salary shall not include payment for accumulated sick and annual leave upon termination of employment or any uniform allowances. Provided, for purposes of determining the normal disability benefit, final average salary shall be based on the member's total service if less than thirty (30) months. ~~Gross Base~~ salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective January 1, 1988, ~~gross base~~ salary shall include any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended. Effective July 1, 1998, gross salary shall include any amount of elective salary reduction not includable in the gross income of the member under Section 132(f) (4) of the Internal Revenue Code of 1986, as amended. Only salary on which required contributions have been made may be used in computing the final average salary.

b. In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, ~~1996~~ 2002, the annual compensation of each "Noneligible Member" taken into account under the System shall not exceed the ~~Omnibus Budget~~ Economic Growth and Tax Relief Reconciliation Act of 1993 (OBRA '93) 2001 (EGTRRA) annual compensation limit. The ~~OBRA '93~~ EGTRRA annual compensation limit is ~~One Hundred Fifty Thousand Dollars (\$150,000.00)~~ Two Hundred Thousand Dollars (\$200,000.00), as adjusted by the Commissioner

for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The annual compensation limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which compensation is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the ~~OBRA '93~~ EGTRRA annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this section, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996.

- c. For plan years beginning on or after July 1, ~~1996~~ 2002, any reference in the System to the annual compensation limit under Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall mean the ~~OBRA '93~~ EGTRRA annual compensation limit set forth in this provision-
- ~~d. If compensation for any prior determination period is taken into account in determining a Noneligible Member's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after July 1, 1996, the OBRA '93 annual compensation limit is One Hundred Fifty Thousand Dollars (\$150,000.00).~~
- ~~e. Effective July 1, 1989, through June 30, 1997, in determining the compensation of a member for purposes of this limitation, the rules of Section 414(q)(6) of the Internal Revenue Code of 1986, as amended, shall apply, except in applying such rules, the term "family" shall include only the spouse of the member and any lineal descendants of the member who have not attained age nineteen (19) before the close of the year. If, as a result of the application of such rules, the adjusted annual compensation limitation is exceeded, then the limitation shall be prorated among the affected individuals in proportion to each such individual's compensation as determined under this section prior to the application of this limitation;~~

~~19.~~ 18. "Accrued retirement benefit" means two and one-half percent (2 1/2%) of the member's final average salary multiplied by the member's years of credited service not to exceed thirty (30) years;

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

~~21.~~ 20. "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, which year shall be the calendar year;

~~22.~~ 21. "Paid base salary" means, effective May 1, 2002, all compensation that shall include longevity, educational allowances, and normal compensation paid on a regularly scheduled pay period of which said pay period shall include holidays, annual leave and sick leave. Paid base salary shall not include overtime, shall not include payment for accumulated sick and annual leave upon termination of employment, and shall not include any uniform allowance or any other compensation for reimbursement of out-of-pocket expenses. This shall exclude any incremental increases due to reimbursement or payment of benefits or other allowances including but not limited to insurance premium reimbursements; and

~~23.~~ 22. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received based on interest rate and mortality assumptions set by the State Board, in a manner that precludes employer discretion, and based upon recommendations from independent professional advisors, and which shall be published annually in the actuarial report.

SECTION 2. AMENDATORY 11 O.S. 2001, 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 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 3. AMENDATORY 11 O.S. 2001, 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 50-111.1 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 Sections 50-101 through 50-105.3 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. 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.

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. The Oklahoma Police Deferred Option Plan shall not be implemented until October 1, 1990, or when the State Board obtains a ruling from the Internal Revenue Service which affirmatively states that said plan shall be treated as a qualified plan for federal income tax purposes, whichever comes last.~~

SECTION 4. AMENDATORY 11 O.S. 2001, Section 50-111.4, is amended to read as follows:

Section 50-111.4 A. The State Board shall adopt rules for computation of the purchase price for transferred credited service. These rules shall base the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be

purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefit said member would receive without purchasing the transferred credited service and the projected benefit after purchase of the transferred credited service 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.

B. In the event that the member is unable to pay the purchase price provided for in this section by the due date, the State Board shall permit the members to amortize the purchase price over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the State Board permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the State Board 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. Notwithstanding anything herein to the contrary, effective July 1, 2003, lump-sum payments for a transferred credited service purchase may be made 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. A member making installment payments on or after July 1, 2003, shall have the option of making lump-sum payments for all or part of the balance of the remaining payments 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. The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

SECTION 5. AMENDATORY 11 O.S. 2001, Section 50-112, is amended to read as follows:

Section 50-112. A. All persons employed as full-time duly appointed or elected officers who are paid for working more than twenty-five (25) hours per week or any person hired by a participating municipality who is undergoing police training to become a permanent police officer of the municipality shall participate in the System upon initial employment with a police department of a participating municipality. All such persons shall submit to a physical-medical examination pertaining to sight, hearing, agility and other conditions the requirements of which shall be established by the State Board. The person shall be required to complete this physical-medical examination prior to the beginning of actual employment. This examination shall identify any preexisting conditions. Except as otherwise provided in this

section, a police officer shall be not less than twenty-one (21) nor more than forty-five (45) years of age when accepted for membership in the System. However, if a municipality should be found to be in noncompliance with the provisions of Article 50 of this title, as determined by the State Board, then any current full-time active police officer employed by a municipality as of July 1, 2001, shall not be denied eligibility to participate in the Oklahoma Police Pension and Retirement System solely due to age. The State Board shall have authority to deny or revoke membership of any person submitting false information in such person's membership application. The State Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this article.

B. The police chief of any participating municipality may be exempt from membership in the System or may become a member provided the member is not a retired member and the requirements of this section are met at the time of employment.

C. A member of the System who has attained his or her normal retirement date may, if the member so elects, agree to terminate employment and retire as a member of the System, and make an election to receive distributions from the System, ~~and then return to employment.~~ If a retired member is reemployed by a participating municipality in the position of police chief, but in the position of police chief, such member shall be a retired member of the System, receiving or in a position which is not covered by the System, retirement shall include receipt by such retired member of in-service distributions from the System while employed as police chief.

D. A former member of the System who terminates from covered employment and who has neither retired from the System nor entered the Oklahoma Police Deferred Option Plan and is later employed in a covered position with a participating municipality shall not be denied eligibility to become a member of the System because he or she is forty-five (45) years of age or older. If such member has withdrawn his or her contributions prior to re-entering the System and the member desires to receive credit for such prior service, then the member shall pay back such contributions and interest pursuant to Section 50-111.1 of this title.

SECTION 6. AMENDATORY 11 O.S. 2001, Section 50-114, is amended to read as follows:

Section 50-114. A. The State Board is hereby authorized to pay out of funds in the System a monthly service pension to any member eligible as hereinafter provided, not exceeding in any event the amount of money in such funds and not exceeding in any event the accrued retirement benefit for such member, except as provided for herein. In order for a member to be eligible for such service pension the following requirements must be complied with:

1. The member's service with the police department for any participating municipality must have ceased; however, a member may be subsequently reemployed in the position of police chief pursuant to subsection C of Section 50-112 of this title;

2. The member must have reached the member's normal retirement date; and

3. The member must have complied with any agreement as to contributions by the member and other members to any funds of the System where said agreement has been made as provided by this article; provided, that should a retired member receive disability benefits as provided in this and other sections of this article, the time the retired member is receiving said disability benefits shall count as time on active service if the retired member should be recalled by the Chief of Police from said disability retirement. It shall be necessary before said time shall be counted toward retirement that the retired member make the same contribution as the member would have otherwise made if on active service for the time the retired member was disabled.

B. Any member complying with all requirements of this article, who reaches normal retirement date, upon application, shall be retired at the accrued retirement benefit. When a member has served for the necessary number of years and is otherwise eligible, as provided in this article, if such member is discharged without cause by the participating municipality, the member shall be eligible for a pension.

C. Effective July 1, 1989, in no event shall commencement of distribution of the accrued retirement benefit of a member be delayed beyond April 1 of the calendar year following the later of:

1. The calendar year in which the member reaches seventy and one-half (70 1/2) years of age; or

2. The actual retirement date of the member.

For distributions made for calendar years beginning on or after January 1, 2001, the System will apply the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, that were proposed on January 17, 2001, notwithstanding any provision of the System to the contrary.

D. In the event of the death of any member who has been awarded a retirement benefit or is eligible therefor as provided in this section, such member's beneficiaries shall be paid such retirement benefit. The remaining portion of the member's retirement benefit shall be distributed to the beneficiaries at least as rapidly as under the method of distribution to the member. Effective March 1, 1997, if a member to whom a retirement benefit has been awarded or who is eligible therefor dies prior to the date as of which the total amount of retirement benefit paid equals the total amount of the employee contributions paid by or on behalf of the member and the member does not have a surviving beneficiary, the total benefits paid as of the date of the member's death shall be subtracted from the accumulated employee contribution amount and the balance, if greater than zero (0), shall be paid to the member's estate.

E. ~~A local board and the~~ The State Board may review and affirm a member's request for retirement benefits prior to the member's normal retirement date provided that no retirement benefits are paid prior to the normal retirement date.

F. A member retired under the provisions of this article may apply to the State Board to have the member's retirement benefits set aside and may make application for disability benefits. Upon approval of the disability benefits, the member would become subject to all provisions of this article pertaining to disability retirement.

G. Upon the death of a retired member or a beneficiary, the benefit payment for the month in which the retired member or beneficiary died, if not previously paid, shall be made to the beneficiary of the member or to the member's or beneficiary's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member or beneficiary died.

SECTION 7. AMENDATORY 11 O.S. 2001, Section 50-114.1, is amended to read as follows:

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

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

- a. ~~Ninety Thousand Dollars (\$90,000.00)~~ 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 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) ~~and~~, (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 delegate.

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

(b) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this division shall be determined using the prevailing commissioner's standard table ~~(described in Code Section 807(d) (5) (A), without regard to any other subparagraph of Code Section 807(d) (5), used to determine reserves for group annuity contracts issued on the date as of which the payment is being determined. (The current table is set forth in Revenue Ruling 95-6 and is based upon a fixed blend of fifty percent (50%) of the male mortality rates and fifty percent (50%) of the female mortality rates from the 1983 Group Annuity Mortality Table.)~~ 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 prior termination pursuant to subsection C of Section 50-111.1 of this title, such repayment shall not be taken into account for purposes of Section 415 of the Internal Revenue Code of 1986, as amended, pursuant to Section 415(k)(3) of the Internal Revenue Code of 1986, as amended.

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

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

~~a. "Defined benefit fraction" means a fraction:~~

- ~~(1) the numerator of which is the projected annual accrued retirement benefit of the member from the System, determined as of the close of the limitation year, and~~
- ~~(2) the denominator of which is the lesser of one hundred twenty-five percent (125%) of the dollar~~

~~limitation under Section 415(b)(1)(A) of the Internal Revenue Code of 1986, as amended, or one hundred forty percent (140%) of the percentage limitation under Section 415(b)(1)(B) of the Internal Revenue Code of 1986, as amended, for the year of determination, taking into account the effect of Section 235(g)(4) of the Tax Equity and Fiscal Responsibility Act of 1982.~~

~~b. "Defined contribution fraction" means a fraction:~~

~~(1) the numerator of which is the sum of the annual additions, as defined in Section 415(c)(2) of the Internal Revenue Code of 1986, as amended, to the accounts of the member under all defined contribution plans maintained by the participating municipalities as of the close of the limitation year, subject to reduction to the extent permitted under the transition rule in Section 235(g)(3) of the Tax Equity and Fiscal Responsibility Act of 1982, and~~

~~(2) the denominator of which is the sum of the lesser of one hundred twenty five percent (125%) of the dollar limitation under Section 415(c)(1)(A) of the Internal Revenue Code of 1986, as amended, or one hundred forty percent (140%) of the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code of 1986, as amended, for such limitation year and for all prior limitation years during which the member was employed by an eligible employer. At the option of the State Board, the denominator may be increased by using for limitation years ending prior to January 1, 1983, an amount equal to the denominator in effect for the limitation year ending in 1982, multiplied by the transition fraction provided in Section 415(c)(6)(B) 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 8. AMENDATORY 11 O.S. 2001, Section 50-114.2, is amended to read as follows:

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

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

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code of 1986; and the portion of any distribution that is not includable in gross income; provided, however, that, effective January 1, 2002, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax member contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code of 1986, as amended, that agrees to separately account for amounts so transferred, including separate accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable;

2. "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, that accepts the Distributee's Eligible Rollover Distribution. ~~However, in the case of an Eligible Rollover Distribution to the surviving spouse~~ Effective January 1, 2002, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of 1986, as amended, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. Effective January 1, 2002, the definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee pursuant to a qualified domestic order as defined in subsection B of Section 50-124 of this title. An Eligible Retirement Plan does not include a Roth IRA under Section 408(a) of the Internal Revenue Code of 1986, as amended;

3. "Distributee" means an employee or former employee. In addition, effective June 7, 1993, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic order, as defined in subsection B of Section 50-124 of this

title, are Distributees with regard to the interest of the spouse or the former spouse; and

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

C. At least thirty (30) days and not more than ninety (90) days before the date of distribution, the Distributee must be provided with a notice of rights which satisfies ~~Code~~ Section 402(f) of the Internal Revenue Code of 1986, as amended, as to rollover options and tax effects. Such distribution may commence less than thirty (30) days after the notice is given, provided that:

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

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

SECTION 9. AMENDATORY 11 O.S. 2001, 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 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 local board;~~

~~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;

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

~~4.~~ 3. 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;

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

~~6.~~ 5. 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. REPEALER 11 O.S. 2001, Sections 50-106.1, 50-106.2 and 50-108, are hereby repealed.

SECTION 11. 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.

Passed the Senate the 6th day of March, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 16th day of April, 2003.

Presiding Officer of the House
of Representatives