

3 Senate Bill No. 283

4 SENATE BILL NO. 283 - By: CORN of the Senate and BRANNON of the
5 House.

6 An Act relating to retirement; amending 47 O.S. 2001,
7 Sections 2-300, as last amended by Section 1, Chapter 542,
8 O.S.L. 2004, 2-303.1, as last amended by Section 14, Chapter
9 536, O.S.L. 2004, 2-305.4, as amended by Section 7, Chapter
10 406, O.S.L. 2003, 2-307, as amended by Section 8, Chapter
11 406, O.S.L. 2003, and 2-307.5, as last amended by Section 6,
12 Chapter 542, O.S.L. 2004 (47 O.S. Supp. 2004, Sections 2-
13 300, 2-303.1, 2-305.4, 2-307 and 2-307.5), which relate to
14 the Oklahoma Law Enforcement Retirement System; amending
15 date; requiring system to apply certain federal
16 requirements; deleting obsolete language; authorizing
17 certification of certain documents; providing for treatment
18 of certain certified documents; amending references;
19 providing for adoption of certain actuarial tables;
20 clarifying when certain employer contributions are due;
21 deleting obsolete language; amending provisions relating to
22 purchase of service credit; and declaring an emergency.

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

24 SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-300, as
25 last amended by Section 1, Chapter 542, O.S.L. 2004 (47 O.S. Supp.
26 2004, Section 2-300), is amended to read as follows:

27 Section 2-300. As used in Section 2-300 et seq. of this title:

- 28 1. "System" means the Oklahoma Law Enforcement Retirement
29 System;
- 30 2. "Act" means Section 2-300 et seq. of this title;
- 31 3. "Board" means the Oklahoma Law Enforcement Retirement Board
32 of the System;

1 4. "Executive Director" means the managing officer of the
2 System employed by the Board;

3 5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

4 6. "Member" means all law enforcement officers of the Oklahoma
5 Highway Patrol and the State Capitol Division of the Department of
6 Public Safety who have obtained certification from the Council on
7 Law Enforcement Education and Training, law enforcement officers and
8 criminalists of the Oklahoma State Bureau of Investigation, law
9 enforcement officers of the Oklahoma State Bureau of Narcotics and
10 Dangerous Drugs Control and the Oklahoma Alcoholic Beverage Laws
11 Enforcement Commission designated to perform duties in the
12 investigation and prevention of crime and the enforcement of the
13 criminal laws of this state, and members of the Communications
14 Division to include radio technicians, tower technicians and
15 commissioned officers of the Lake Patrol Division of the Oklahoma
16 Department of Public Safety, park rangers of the Oklahoma Tourism
17 and Recreation Department and inspectors of the Oklahoma State Board
18 of Pharmacy, and any park manager or park supervisor of the Oklahoma
19 Tourism and Recreation Department who was employed in such a
20 position prior to July 1, 1985, and who elects on or before
21 September 1, 1996, to participate in the System. Effective July 1,
22 1987, a member does not include a "leased employee" as defined under
23 Section 414(n) (2) of the Internal Revenue Code of 1986, as amended.

1 Effective July 1, 1999, any individual who agrees with the
2 participating employer that the individual's services are to be
3 performed as a leased employee or an independent contractor shall
4 not be a member regardless of any classification as a common-law
5 employee by the Internal Revenue Service or any other governmental
6 agency, or any court of competent jurisdiction, provided that all
7 persons who shall be offered a position of a law enforcement officer
8 shall participate in the System upon the person meeting the
9 requisite post-offer-pre-employment physical examination standards
10 which shall be subject to the following requirements:

- 11 a. all such persons shall be of good moral character,
12 free from deformities, mental or physical conditions,
13 or disease and alcohol or drug addiction which would
14 prohibit the person from performing the duties of a
15 law enforcement officer,
- 16 b. said physical-medical examination shall pertain to
17 age, sight, hearing, agility and other conditions the
18 requirements of which shall be established by the
19 Board,
- 20 c. the person shall be required to meet the conditions of
21 this subsection prior to the beginning of actual
22 employment but after an offer of employment has been
23 tendered by a participating employer,

- 1 d. the Board shall have authority to deny or revoke
2 membership of any person submitting false information
3 in such person's membership application, and
4 e. the Board shall have final authority in determining
5 eligibility for membership in the System, pursuant to
6 the provisions of this subsection;

7 7. "Normal retirement date" means the date at which the member
8 is eligible to receive the unreduced payments of the member's
9 accrued retirement benefit. Such date shall be the first day of the
10 month coinciding with or following the date the member:

11 a. completes twenty (20) years of vesting service~~+~~+ or

12 b. attains sixty-two (62) years of age with ten (10)
13 years of vesting service~~+~~+ or

14 c. attains sixty-two (62) years of age, if:

15 (1) the member has been transferred to this System
16 from the Oklahoma Public Employees Retirement
17 System on or after July 1, 1981~~+~~+ and

18 (2) the member would have been vested had the member
19 continued to be a member of the Oklahoma Public
20 Employees Retirement System~~+~~+.

21 With respect to distributions under the System made for calendar
22 years beginning on or after January 1, ~~2001~~ 2005, the System ~~will~~
23 shall apply the minimum distribution incidental benefit

1 requirements, incidental benefit requirements, and minimum
2 distribution requirements of Section 401(a) (9) of the Internal
3 Revenue Code of 1986, as amended, in accordance with the ~~regulations~~
4 ~~under Section 401(a) (9) of the Internal Revenue Code of 1986, as~~
5 ~~amended, that were proposed in January 2001, notwithstanding any~~
6 ~~provision of the System to the contrary. This amendment shall~~
7 ~~continue in effect until the end of the last calendar year beginning~~
8 ~~before the effective date of final regulations under Section~~
9 401(a) (9) of the Internal Revenue Code of 1986, as amended, ~~or such~~
10 ~~other date as may be specified in guidance published by the Internal~~
11 ~~Revenue Service. Furthermore, to the extent applicable,~~
12 ~~distributions shall be made in accordance with~~ which were issued in
13 April 2002 and June 2004, notwithstanding any provision of the
14 System to the contrary. With respect to distributions under the
15 System made for calendar years beginning on or after January 1,
16 2001, through December 31, 2004, the System shall apply the minimum
17 distribution requirements and incidental benefit requirements of
18 Section 401(a) (9) of the Internal Revenue Code of 1986, as amended,
19 in accordance with the regulations under Section 401(a) (9) of the
20 Internal Revenue Code of 1986, as amended, ~~including the minimum~~
21 ~~distribution incidental benefit requirements of the Proposed Income~~
22 ~~Tax Regulations~~ which were proposed in January 2001, notwithstanding
23 any provision of the System to the contrary.

1 Effective July 1, 1989, notwithstanding any other provision
2 contained herein to the contrary, in no event shall commencement of
3 distribution of the accrued retirement benefit of a member be
4 delayed beyond April 1 of the calendar year following the later of:
5 (1) the calendar year in which the member reaches seventy and one-
6 half (70 1/2) years of age; or (2) the actual retirement date of the
7 member. The preceding sentence does not allow deferral of benefit
8 commencement beyond the age of sixty-five (65).

9 A member who was required to join the System effective July 1,
10 1980, because of the transfer of the employing agency from the
11 Oklahoma Public Employees Retirement System to the System, and was
12 not a member of the Oklahoma Public Employees Retirement System on
13 the date of such transfer shall be allowed to receive credit for
14 prior law enforcement service rendered to this state, if the member
15 is not receiving or eligible to receive retirement credit or
16 benefits for such service in any other public retirement system,
17 upon payment to the System of the employee contribution the member
18 would have been subject to had the member been a member of the
19 System at the time, plus five percent (5%) interest. Service credit
20 received pursuant to this paragraph shall be used in determining the
21 member's retirement benefit, and shall be used in determining years
22 of service for retirement or vesting purposes;

1 8. "Actual paid base salary" means the salary received by a
2 member, excluding payment for any accumulated leave or uniform
3 allowance. Salary shall include any amount of nonelective salary
4 reduction under Section 414(h) of the Internal Revenue Code of 1986;

5 9. "Final average salary" means the average of the highest
6 thirty (30) consecutive complete months of actual paid gross salary.
7 Gross salary shall include any amount of elective salary reduction
8 under Section 457 of the Internal Revenue Code of 1986, as amended,
9 and any amount of nonelective salary reduction under Section 414(h)
10 of the Internal Revenue Code of 1986, as amended. Effective July 1,
11 1992, gross salary shall include any amount of elective salary
12 reduction under Section 125 of the Internal Revenue Code of 1986, as
13 amended. Effective July 1, 1998, gross salary shall include any
14 amount of elective salary reduction not includable in the gross
15 income of the member under Section 132(f)(4) of the Internal Revenue
16 Code of 1986, as amended. Effective July 1, 1998, for purposes of
17 determining a member's compensation, any contribution by the member
18 to reduce his or her regular cash remuneration under Section
19 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
20 treated as if the member did not make such an election. Only salary
21 on which required contributions have been made may be used in
22 computing the final average salary.

1 In addition to other applicable limitations, and notwithstanding
2 any other provision to the contrary, for plan years beginning on or
3 after July 1, 2002, the annual gross salary of each "Noneligible
4 Member" taken into account under the System shall not exceed the
5 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")
6 annual salary limit. The EGTRRA annual salary limit is Two Hundred
7 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for
8 increases in the cost of living in accordance with Section
9 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The
10 annual salary limit in effect for a calendar year applies to any
11 period, not exceeding twelve (12) months, over which salary is
12 determined ("determination period") beginning in such calendar year.
13 If a determination period consists of fewer than twelve (12) months,
14 the EGTRRA salary limit will be multiplied by a fraction, the
15 numerator of which is the number of months in the determination
16 period, and the denominator of which is twelve (12). For purposes
17 of this section, a "Noneligible Member" is any member who first
18 became a member during a plan year commencing on or after July 1,
19 1996.

20 For plan years beginning on or after July 1, 2002, any reference
21 in the System to the annual salary limit under Section 401(a)(17) of
22 the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA
23 salary limit set forth in this provision;

1 10. "Credited service" means the period of service used to
2 determine the amount of benefits payable to a member. Credited
3 service shall consist of the period during which the member
4 participated in the System or the predecessor Plan as an active
5 employee in an eligible membership classification, plus any service
6 prior to the establishment of the predecessor Plan which was
7 credited under the predecessor Plan and for law enforcement officers
8 and criminalists of the Oklahoma State Bureau of Investigation and
9 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
10 who became members of the System on July 1, 1980, any service
11 credited under the Oklahoma Public Employees Retirement System as of
12 June 30, 1980, and for members of the Communications and Lake Patrol
13 Divisions of the Oklahoma Department of Public Safety, who became
14 members of the System on July 1, 1981, any service credited under
15 the predecessor Plan or the Oklahoma Public Employees Retirement
16 System as of June 30, 1981, and for law enforcement officers of the
17 Alcoholic Beverage Laws Enforcement Commission who became members of
18 the System on July 1, 1982, any service credited under the Oklahoma
19 Public Employees Retirement System as of June 30, 1982, and for park
20 rangers of the Oklahoma Tourism and Recreation Department who became
21 members of the System on July 1, 1985, any service credited under
22 the Oklahoma Public Employees Retirement System as of June 30, 1985,
23 and for inspectors of the Oklahoma State Board of Pharmacy who

1 became members of the System on July 1, 1986, any service credited
2 under the Oklahoma Public Employees Retirement System as of June 30,
3 1986, for law enforcement officers of the Oklahoma Capitol Patrol
4 Division of the Department of Public Safety who became members of
5 the System effective July 1, 1993, any service credited under the
6 Oklahoma Public Employees Retirement System as of June 30, 1993, and
7 for all commissioned officers in the Gunsmith/Ammunition Reloader
8 Division of the Department of Public Safety who became members of
9 the System effective July 1, 1994, any service credited under the
10 Oklahoma Public Employees Retirement System as of June 30, 1994, and
11 for the park managers or park supervisors of the Oklahoma Tourism
12 and Recreation Department who were employed in such a position prior
13 to July 1, 1985, and who elect to become members of the System
14 effective September 1, 1996, any service transferred pursuant to
15 subsection C of Section 2-309.6 of this title. Effective August 5,
16 1993, an authorized leave of absence shall include a period of
17 absence pursuant to the Family and Medical Leave Act of 1993;

18 11. "Disability" means a physical or mental condition which, in
19 the judgment of the Board, totally and presumably permanently
20 prevents the member from engaging in the usual and customary duties
21 of the occupation of the member and thereafter prevents the member
22 from performing the duties of any occupation or service for which
23 the member is qualified by reason of training, education or

1 experience. A person is not under a disability when capable of
2 performing a service to the employer, regardless of occupation,
3 providing the salary of the employee is not diminished thereby;

4 12. "Limitation year" means the year used in applying the
5 limitations of Section 415 of the Internal Revenue Code of 1986,
6 which year shall be the calendar year;

7 13. "Line of duty" means any action which a member whose
8 primary function is crime control or reduction or enforcement of the
9 criminal law is obligated or authorized by rule, regulations,
10 condition of employment or service, or law to perform, including
11 those social, ceremonial, or athletic functions to which the member
12 is assigned, or for which the member is compensated, by the agency
13 the member serves;

14 14. "Personal injury" or "injury" means any traumatic injury as
15 well as diseases which are caused by or result from such an injury,
16 but not occupational diseases;

17 15. "Catastrophic nature" means consequences of an injury that
18 permanently prevent an individual from performing any gainful work;

19 16. "Traumatic injury" means a wound or a condition of the body
20 caused by external force, including injuries inflicted by bullets,
21 explosives, sharp instruments, blunt objects or other physical
22 blows, chemicals, electricity, climatic conditions, infectious

1 diseases, radiation, and bacteria, but excluding stress and strain;
2 and

3 17. "Beneficiary" means the individual designated by the member
4 on a beneficiary designation form supplied by the Oklahoma Law
5 Enforcement Retirement System, or if there is no designated
6 beneficiary or if the designated beneficiary predeceases the member,
7 the estate of the member. If the member's spouse is not designated
8 as the sole primary beneficiary, the member's spouse must sign a
9 consent.

10 SECTION 2. AMENDATORY 47 O.S. 2001, Section 2-303.1, as
11 last amended by Section 14, Chapter 536, O.S.L. 2004 (47 O.S. Supp.
12 2004, Section 2-303.1), is amended to read as follows:

13 Section 2-303.1 A. The Oklahoma Law Enforcement Retirement
14 Board shall discharge its duties with respect to the System solely
15 in the interest of the participants and beneficiaries and:

16 1. For the exclusive purpose of:

17 a. providing benefits to participants and their
18 beneficiaries, and

19 b. defraying reasonable expenses of administering the
20 System;

21 2. With the care, skill, prudence, and diligence under the
22 circumstances then prevailing that a prudent person acting in a like

1 capacity and familiar with such matters would use in the conduct of
2 an enterprise of a like character and with like aims;

3 3. By diversifying the investments of the System so as to
4 minimize the risk of large losses, unless under the circumstances it
5 is clearly prudent not to do so; and

6 4. In accordance with the laws, documents and instruments
7 governing the System.

8 B. The Board may procure insurance indemnifying the members of
9 the Board from personal loss or accountability from liability
10 resulting from a member's action or inaction as a member of the
11 Board.

12 C. The Board may establish an investment committee. The
13 investment committee shall be composed of not more than five (5)
14 members of the Board appointed by the president of the Board. The
15 committee shall make recommendations to the full Board on all
16 matters related to the choice of custodians and managers of the
17 assets of the System, on the establishment of investment and fund
18 management guidelines, and in planning future investment policy.
19 The committee shall have no authority to act on behalf of the Board
20 in any circumstances whatsoever. No recommendation of the committee
21 shall have effect as an action of the Board nor take effect without
22 the approval of the Board as provided by law.

1 D. The Board shall retain qualified investment managers to
2 provide for the investment of the monies of the System. The
3 investment managers shall be chosen by a solicitation of proposals
4 on a competitive bid basis pursuant to standards set by the Board.
5 Subject to the overall investment guidelines set by the Board, the
6 investment managers shall have full discretion in the management of
7 those monies of the System allocated to the investment managers.
8 The Board shall manage those monies not specifically allocated to
9 the investment managers. The monies of the System allocated to the
10 investment managers shall be actively managed by the investment
11 managers, which may include selling investments and realizing losses
12 if such action is considered advantageous to longer term return
13 maximization. Because of the total return objective, no distinction
14 shall be made for management and performance evaluation purposes
15 between realized and unrealized capital gains and losses.

16 E. All assets of the System shall be held in trust for the
17 exclusive purpose of providing benefits for the members and
18 beneficiaries of the System, including defraying reasonable expenses
19 of administering the System, and shall not be encumbered for or
20 diverted to any other purposes. Funds and revenues for investment
21 by the investment managers or the Board shall be placed with a
22 custodian selected by the Board. The custodian shall be a bank or
23 trust company offering pension fund master trustee and master

1 custodial services. The custodian shall be chosen by a solicitation
2 of proposals on a competitive bid basis pursuant to standards set by
3 the Board. In compliance with the investment policy guidelines of
4 the Board, the custodian bank or trust company shall be
5 contractually responsible for ensuring that all monies of the System
6 are invested in income-producing investment vehicles at all times.
7 If a custodian bank or trust company has not received direction from
8 the investment managers of the System as to the investment of the
9 monies of the System in specific investment vehicles, the custodian
10 bank or trust company shall be contractually responsible to the
11 Board for investing the monies in appropriately collateralized
12 short-term interest-bearing investment vehicles.

13 F. Prior to August 1 of each year, the Board shall develop a
14 written investment plan for the System.

15 G. The Board shall compile a quarterly financial report of all
16 the funds of the System on a fiscal year basis. The report shall be
17 compiled pursuant to uniform reporting standards prescribed by the
18 Oklahoma State Pension Commission for all state retirement systems.
19 The report shall include several relevant measures of investment
20 value, including acquisition cost and current fair market value with
21 appropriate summaries of total holdings and returns. The report
22 shall contain combined and individual rate of returns of the
23 investment managers by category of investment, over periods of time.

1 The Board shall include in the quarterly reports all commissions,
2 fees or payments for investment services performed on behalf of the
3 Board. The report shall be distributed to the Governor, the
4 Oklahoma State Pension Commission, the Legislative Service Bureau,
5 the Speaker of the House of Representatives and the President Pro
6 Tempore of the Senate.

7 H. After July 1 and before October 31 of each year, the Board
8 shall publish widely an annual report presented in simple and easily
9 understood language pursuant to uniform reporting standards
10 prescribed by the Oklahoma State Pension Commission for all state
11 retirement systems. The report shall be submitted to the Governor,
12 the Speaker of the House of Representatives, the President Pro
13 Tempore of the Senate, the Oklahoma State Pension Commission and the
14 members of the System. The annual report shall cover the operation
15 of the System during the past fiscal year, including income,
16 disbursements, and the financial condition of the System at the end
17 of the fiscal year. The annual report shall also contain the
18 information issued in the quarterly reports required pursuant to
19 subsection G of this section as well as a summary of the results of
20 the most recent actuarial valuation to include total assets, total
21 liabilities, unfunded liability or over funded status, contributions
22 and any other information deemed relevant by the Board. The annual
23 report shall be written in such a manner as to permit a readily

1 understandable means for analyzing the financial condition and
2 performance of the System for the fiscal year. The annual financial
3 statements must be audited and filed in accordance with the
4 requirements set forth for financial statement audits in Section
5 212A of Title 74 of the Oklahoma Statutes. In order to standardize
6 the information and analysis of the financial condition of the
7 System, the Board shall provide information regarding the financial
8 and actuarial condition of the System using assumptions or
9 requirements as hereinafter required for the report stating the
10 condition of the System as of July 1, 2002, and for each subsequent
11 reporting date, which information shall be contained in an appendix
12 or addendum to the annual report. For purposes other than the
13 reporting requirements contained in the appendix or addendum, all
14 actuarial and economic assumptions shall be those assumptions
15 adopted by the System in its annual actuarial valuation. The
16 appendix or addendum shall contain a statement of the financial
17 condition of the System:

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

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

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

5 4. Which accurately and completely summarizes all sources of
6 system assets, other than employee contributions, which shall
7 include, but not be limited to, the total of all employer
8 contributions, any dedicated tax or fee revenue of whatever kind or
9 however denominated, and the total amount of any other source of
10 revenue which accrues to the System, other than return on
11 investments, such as federal monies used for the purpose of making
12 employer contributions; and

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

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

21 J. All information, documents and copies thereof contained in a
22 member's retirement file shall be given confidential treatment and
23 shall not be made public by the System without the prior written

1 consent of the member to which it pertains, but shall be subject
2 only to court order. Provided, the System, its employees or
3 attorneys, may use such records in defense of any action brought
4 against the System.

5 K. Effective July 1, 1999, the Board is hereby authorized to do
6 all acts and things necessary and proper to carry out the purpose of
7 the System and to make the least costly amendments and changes, if
8 any, as may be necessary to qualify the System under the applicable
9 sections of the Internal Revenue Code of 1986, as amended.

10 L. The Board shall adopt a cost of living adjustment actuarial
11 assumption in its annual actuarial valuation report.

12 M. The Executive Director and such employees of the System as
13 the Executive Director may designate are hereby authorized to
14 prepare certified copies of records of the System and every such
15 certified copy shall be admissible in any proceeding in any court in
16 like manner as the original thereof.

17 SECTION 3. AMENDATORY 47 O.S. 2001, Section 2-305.4, as
18 amended by Section 7, Chapter 406, O.S.L. 2003 (47 O.S. Supp. 2004,
19 Section 2-305.4), is amended to read as follows:

20 Section 2-305.4 A. Notwithstanding any other provision
21 contained herein to the contrary, the benefits payable to a member
22 in the System shall be subject to the limitations of Section 415 of

1 the Internal Revenue Code of 1986, as amended, in accordance with
2 the provisions of subsections B and C of this section.

3 B. Except as provided in paragraphs 3 through 7 of this
4 subsection, any accrued retirement benefit payable to a member shall
5 not exceed the lesser of:

6 1. One Hundred Sixty Thousand Dollars (\$160,000.00), effective
7 January 1, 2002, adjusted for increases in the cost of living, as
8 prescribed by the Secretary of the Treasury or his delegate,
9 effective January 1 of each calendar year and applicable to the
10 limitation year ending with or within such calendar year; or

11 2. For limitation years beginning prior to January 1, 1995, one
12 hundred percent (100%) of the average earnings of the member for the
13 three (3) consecutive calendar years, while a member in the System,
14 in which the member's earnings were the highest. For purposes of
15 this paragraph, earnings for any limitation year shall be the earned
16 income of the member, wages, salaries, fees for professional
17 services, and other amounts received for personal services actually
18 rendered in the course of employment with a participating employer,
19 provided such amounts are actually paid or includable in gross
20 income during such year. Earnings shall exclude the following:

21 a. contributions by a participating employer to a plan of
22 deferred compensation which are not included in the
23 gross income of the member for the taxable year in

1 which contributed or any distributions from a funded
2 plan of deferred compensation, and
3 b. other amounts which received special tax benefits, or
4 contributions made by a participating employer,
5 whether or not under a salary reduction agreement,
6 towards the purchase of an annuity described in
7 Section 403(b) of the Internal Revenue Code of 1986,
8 whether or not the amounts are actually excludable
9 from the gross income of the member;
10 3. Except as provided in paragraph 5 of this subsection, the
11 limitations specified in paragraphs 1 and 2 of this subsection shall
12 not be applicable with respect to any member whose total annual
13 accrued retirement benefit payable from the System is less than Ten
14 Thousand Dollars (\$10,000.00) and who has not at any time
15 participated in any contribution plan, within the meaning of Section
16 415(k) of the Internal Revenue Code of 1986, as amended, maintained
17 by a participating employer;
18 4. If a member has less than ten (10) years of participation in
19 the System and all predecessor pension and retirement systems, the
20 dollar limitation otherwise applicable under paragraph 1 of this
21 subsection shall be reduced by multiplying such limitation by a
22 fraction, the numerator of which is the number of the years of
23 participation in the System of the member, but never less than one

1 (1), and the denominator of which is ten (10). This paragraph, to
2 the extent required by the Secretary of the Treasury, shall be
3 applied separately to each change in benefit structure hereunder;

4 5. Effective for limitation years beginning on or after January
5 1, 1995, if a member has been credited with less than ten (10) years
6 of credited service, the dollar amount otherwise applicable under
7 paragraph 3 of this subsection shall be reduced by multiplying such
8 dollar amount by a fraction, the numerator of which is the number of
9 the years of credited service of the member, but never less than one
10 (1), and the denominator of which is ten (10);

11 6. The limitations specified in this section shall apply to a
12 straight life annuity with no ancillary benefits and to an annuity
13 that constitutes a qualified joint and survivor annuity. If payment
14 is in a different form, the amount thereof shall be adjusted to be
15 the actuarial equivalent of a single life annuity and the
16 limitations shall be applied to such adjusted amount. Such
17 adjustment shall be based on the mortality tables and interest rates
18 described in divisions (1), (2) and (3) of subparagraph a and
19 subparagraph c of this paragraph.

20 a. If payment begins before the member reaches sixty-two
21 (62) years of age, the limitation in paragraph 1 of
22 this subsection shall be reduced on an actuarially
23 equivalent basis; provided however, prior to January

1 1, 2002, if such payment begins after the member
2 reaches fifty-five (55) years of age, the reduced
3 limit shall not be less than Seventy-five Thousand
4 Dollars (\$75,000.00) and, if payment begins prior to
5 the member reaching fifty-five (55) years of age, the
6 reduced limit shall not be less than the actuarial
7 equivalent of the Seventy-five Thousand Dollar
8 (\$75,000.00) limit for age fifty-five (55); provided
9 further, that in no event shall such amount be reduced
10 below Fifty Thousand Dollars (\$50,000.00), adjusted
11 for increases in the cost of living, as prescribed by
12 the Secretary of Treasury, or his delegate.

13 (1) For limitation years beginning before January 1,
14 1999, the interest rate to be used to determine
15 such actuarial equivalent amount in this
16 subparagraph shall be the rate specified in the
17 actuarial tables adopted by the Board as
18 described in subparagraph c of this paragraph;
19 however, the interest rate used in determining an
20 actuarially equivalent pre-age-sixty-two (62)
21 amount shall not be less than five percent (5%).

22 (2) Effective for limitation years beginning on or
23 after January 1, 1999, the actuarial equivalent

1 adjustments in this subparagraph shall be
2 determined using the prevailing Commissioner's
3 standard table (described in Section 807(d)(5)(A)
4 of the Internal Revenue Code of 1986, as
5 amended), without regard to any other
6 subparagraph of Section 807(d)(5), used to
7 determine reserves for group annuity contracts
8 issued on the date as of which the payment is
9 being determined. Notwithstanding any other
10 System provisions to the contrary, for
11 distributions with annuity starting dates on or
12 after December 31, 2002, the applicable mortality
13 table used for purposes of adjusting any benefit
14 or limitation under Sections 415(b)(2)(B), (C) or
15 (D) of the Internal Revenue Code of 1986, as
16 amended, is the table described in Rev. Rul.
17 2001-62. The interest rate shall be five percent
18 (5%).

19 (3) For limitation years beginning on or after
20 January 1, 1997, if payment begins before the
21 member reached age sixty-two (62), the reductions
22 in the limitations in this subparagraph shall not
23 apply to a member who is a "qualified

1 participant" as defined in Section 415(b) (2) (H)
2 of the Internal Revenue Code of 1986, as amended.

3 b. If payment begins after the member reaches sixty-five
4 (65) years of age, the limitation in paragraph 1 of
5 this subsection shall be the actuarial equivalent of
6 such amount otherwise applicable at the member
7 reaching sixty-five (65) years of age.

8 (1) For limitation years beginning before January 1,
9 1999, the interest rate to be used to determine
10 such actuarial equivalent amount in this
11 subparagraph shall be the rate specified in the
12 actuarial tables adopted by the Board as
13 described in subparagraph c of this paragraph;
14 however, the interest rate used in determining an
15 actuarially equivalent post-age-sixty-five (65)
16 amount shall not be greater than five percent
17 (5%).

18 (2) Effective for limitation years beginning on or
19 after January 1, 1999, the actuarial equivalent
20 adjustments in this subparagraph shall use the
21 mortality and interest rate basis provided in
22 division (2) of subparagraph a of this paragraph.

1 c. The actuarial tables adopted by the Board for
2 limitation years beginning before January 1, 1999, for
3 purposes of adjusting any benefit under Sections
4 415(b)(2)(B), (C) or (D) shall be based on an interest
5 rate of seven percent (7%) and the 1983 Group Annuity
6 Mortality Table.

7 7. In no event shall the maximum annual accrued retirement
8 benefit of a member allowable under this section be less than the
9 annual amount of such accrued retirement benefit, including early
10 pension and qualified joint and survivor annuity amounts, duly
11 accrued by the member as of the last day of the limitation year
12 beginning in 1982, or as of the last day of the limitation year
13 beginning in 1986, whichever is greater, disregarding any plan
14 changes or cost-of-living adjustments occurring after July 1, 1982,
15 as to the 1982 accrued amount, and May 5, 1986, as to the 1986
16 accrued amount.

17 8. Effective for years beginning after December 31, 1997, if a
18 member purchases service under Section 2-307.5 and/or Section 2-
19 307.7 of this title, which qualifies as "permissive service credit"
20 pursuant to Section 415(n) of the Internal Revenue Code of 1986, as
21 amended, the limitations of Section 415 of the Internal Revenue Code
22 of 1986, as amended, may be met by either:

- 1 a. treating the accrued benefit derived from such
2 contributions as an annual benefit under this section,
3 or
4 b. treating all such contributions as annual additions
5 for purposes of Section 415(c) of the Internal Revenue
6 Code of 1986, as amended.

7 9. Effective for years beginning after December 31, 1997, if a
8 member repays to the System any amounts received because of his
9 prior termination pursuant to paragraph 3 of subsection (b) of
10 Section 2-307 of this title, such repayment shall not be taken into
11 account for purposes of Section 415 of the Internal Revenue Code of
12 1986, as amended, pursuant to Section 415(k)(3) of the Internal
13 Revenue Code of 1986, as amended.

14 For limitation years beginning on or after January 1, 1995,
15 paragraphs 4, 5 and 6 of this subsection shall not apply to a
16 benefit paid under the System as a result of the member becoming
17 disabled by reason of personal injuries or sickness, or amounts
18 received by the beneficiaries, survivors or estate of the member as
19 the result of the death of the member.

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

1 D. The Board is hereby authorized to revoke the special
2 election previously made under Internal Revenue Code Section
3 415(b)(10).

4 SECTION 4. AMENDATORY 47 O.S. 2001, Section 2-307, as
5 amended by Section 8, Chapter 406, O.S.L. 2003 (47 O.S. Supp. 2004,
6 Section 2-307), is amended to read as follows:

7 Section 2-307. (a) In the event a member of the System obtains
8 a leave of absence, of not to exceed ninety (90) days at any one
9 time, because of injury or illness or for any personal reason other
10 than the acceptance of other employment, his membership in the
11 System shall not terminate and the period of such leave shall be
12 counted toward retirement for length of service if, during such
13 leave of absence or at the end thereof, he shall pay to the Fund an
14 amount equal to the contributions which would have been deducted
15 from his salary during such period if such leave of absence had not
16 been obtained, but if such contributions are not paid during such
17 leave or made up within thirty (30) days after the end of such
18 leave, or if such leave of absence extends for more than ninety (90)
19 days at any one time, the period of such leave shall not be counted
20 toward length of service for retirement nor in computing the amount
21 of any pension or any retirement pay or any other benefits
22 hereunder.

1 (b) In the event a member of the System obtains a leave of
2 absence for the purpose of accepting other employment, or if a
3 member resigns and during such resignation accepts other employment,
4 his membership in the System shall terminate as of the date of the
5 beginning of such leave. Provided, that if the membership of a
6 member of the System shall have been terminated either by such leave
7 of absence or by termination of employment, and such former member
8 is reemployed, the Board, upon application therefor made in the same
9 manner as an original application for membership in the System, may
10 reinstate such membership. Such reinstated member shall be allowed
11 full credit toward retirement for all service credit accrued up to
12 the time of termination of membership if, but only if:

13 1. Such application for reinstatement is made within three (3)
14 years from the date of such termination of such membership; and

15 2. Such reinstated member remains a member of the System for a
16 period of five (5) consecutive years after reinstatement of
17 membership; and

18 3. Such reinstated member reimburses the Fund, at the time
19 application for reinstatement is made, with the amount of any
20 portion of his membership contribution which has been refunded to
21 him under the provisions of Section 2-308 of this title; and

22 4. Effective January 1, 2002, a lump-sum payment for repayment
23 of any amount received because of a member's prior termination may

1 be repaid by trustee-to-trustee transfers from a Section 403(b)
2 annuity, an eligible Section 457(b) plan, and/or a Section 401(a)
3 qualified plan.

4 The provisions of this subsection shall not apply to absences
5 caused by such military service as may be considered as service for
6 retirement for length of service under the provisions of subsection
7 (c) of this section.

8 (c) In determining the eligibility of a member for retirement
9 based upon length of service, any service in the Armed Forces of the
10 United States or any component thereof between the 16th day of
11 September, 1940, and the 30th day of June, 1954, and any service in
12 the Armed Forces of the United States or any component thereof upon
13 call of the President of the United States or of the Governor of the
14 State of Oklahoma, together with such prior service, as would have
15 been otherwise considered as service for retirement for length of
16 service, shall be considered as service for length of service,
17 provided that the member returns and files application for
18 reinstatement as a member of the System within ninety (90) days
19 after his release, or opportunity for release, from such Armed
20 Forces or component thereof. If such member shall have been
21 refunded any portion of his membership contributions as provided in
22 Section 2-308 of this title, he shall be required to reimburse the
23 Fund with the same amount at the time of his application for

1 reinstatement in the System, before the reinstated member is given
2 credit for accrued prior service. Provided, that in no event shall
3 a member of the System who has entered such Armed Forces or
4 component thereof prior to retirement be or become eligible for
5 retirement for length of service unless he shall thereafter have
6 been reinstated as a member of the System as provided for herein,
7 and thereafter remained a member for at least one (1) year after
8 such reinstatement.

9 (d) Time spent on involuntary furlough by members pursuant to
10 the rules of the Office of Personnel Management shall be credited.

11 (e) Notwithstanding any provisions herein to the contrary,
12 contributions, benefits and service credit with respect to qualified
13 military service shall be provided in accordance with Section 414(u)
14 of the Internal Revenue Code of 1986, as amended, which is in
15 accordance with the Uniformed Service Employment and Reemployment
16 Rights Act of 1994, as amended (USERRA). The employer's
17 contributions to the System for a member covered by USERRA are due
18 when such a member makes up his or her contributions that were
19 missed due to his or her qualified military service.

20 SECTION 5. AMENDATORY 47 O.S. 2001, Section 2-307.5, as
21 last amended by Section 6, Chapter 542, O.S.L. 2004 (47 O.S. Supp.
22 2004, Section 2-307.5), is amended to read as follows:

1 Section 2-307.5 A. The Board shall adopt rules for computation
2 of the purchase price for transferred credited service. These rules
3 shall base the purchase price for each year purchased on the
4 actuarial cost of the incremental projected benefits to be
5 purchased. The purchase price shall represent the present value of
6 the incremental projected benefits discounted according to the
7 member's age at the time of purchase. Incremental projected
8 benefits shall be the difference between the projected benefit said
9 member would receive without purchasing the transferred credited
10 service and the projected benefit after purchase of the transferred
11 credited service computed as of the earliest age at which the member
12 would be able to retire. Said computation shall assume an unreduced
13 benefit and be computed using interest and mortality assumptions
14 consistent with the actuarial assumptions adopted by the Board for
15 purposes of preparing the annual actuarial evaluation.

16 B. In the event that the member is unable to pay the purchase
17 price provided for in this section by the due date, the Board shall
18 permit the members to amortize the purchase price over a period not
19 to exceed sixty (60) months. Said payments shall be made by payroll
20 deductions unless the Board permits an alternate payment source.
21 The amortization shall include interest in an amount not to exceed
22 the actuarially assumed interest rate adopted by the Board for
23 investment earnings each year. Any member who ceases to make

1 payment, terminates, retires or dies before completing the payments
2 provided for in this section shall receive prorated service credit
3 for only those payments made, unless the unpaid balance is paid by
4 said member, his or her estate or successor in interest within six
5 (6) months after said member's death, termination of employment or
6 retirement, provided no retirement benefits shall be payable until
7 the unpaid balance is paid, unless said member or beneficiary
8 affirmatively waives the additional six-month period in which to pay
9 the unpaid balance. Notwithstanding anything herein to the
10 contrary, ~~effective January 1, 2002,~~ lump-sum payments for a
11 transferred credited service ~~purchases~~ purchase may be made by a
12 trustee-to-trustee ~~transfers~~ transfer from a Code Section 403(b)
13 annuity or custodial account, an eligible deferred compensation plan
14 described in Code Section 457(b) ~~plan, and/or a~~ which is maintained
15 by an eligible employer described in Code Section 457(e)(1)(A),
16 and/or a Code Section 401(a) qualified plan; or a direct rollover of
17 tax-deferred funds from a Code Section 403(b) annuity or custodial
18 account, an eligible deferred compensation plan described in Code
19 Section 457(b) which is maintained by an eligible employer described
20 in Code Section 457(e)(1)(A), a Code Section 401(a) qualified plan,
21 and/or a Code Section 408(a) or 408(b) traditional or conduit
22 Individual Retirement Account or Annuity (IRA). Roth IRAs and

1 Coverdell Education Savings Accounts shall not be used to purchase
2 transferred credited service.

3 ~~Members~~ A member making installment payments ~~on or after January~~
4 ~~1, 2002,~~ shall have the option of making a cash lump-sum payment for
5 the balance of the actuarial purchase price with interest due
6 through the date of payment by a trustee-to-trustee transfers
7 transfer from a Code Section 403(b) annuity ~~plan, and/or a~~ custodial
8 account, an eligible deferred compensation plan described in Code
9 Section 457(b) which is maintained by an eligible employer described
10 in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified
11 plan; or a direct rollover of tax-deferred funds from a Code Section
12 403(b) annuity or custodial account, an eligible deferred
13 compensation plan described in Code Section 457(b) which is
14 maintained by an eligible employer described in Code Section
15 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code
16 Section 408(a) or 408(b) traditional or conduit Individual
17 Retirement Account or Annuity (IRA). Roth IRAs and Coverdell
18 Education Savings Accounts shall not be used to purchase transferred
19 credited service. The Board shall promulgate such rules as are
20 necessary to implement the provisions of this subsection.

21 SECTION 6. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND GROUP HEALTH, dated
4 2-8-05 - DO PASS, As Coauthored.