ENGROSSED SENATE
BILL NO. 2143 By: Corn of the Senate

and

Hickman of the House

[retirement – Oklahoma Law Enforcement Retirement System – effective date - emergency]

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-303.3, is amended to read as follows:

Section 2-303.3 A. Except as otherwise provided by this section, any annuity, benefits, fund, property, or rights created by or accruing to any person pursuant to the provisions of Sections 2-300 through 2-313 of this title shall not be subject to execution, garnishment or attachment, and shall be unassignable, except as specifically provided by Sections 2-300 through 2-313 of this title. Notwithstanding the foregoing, effective August 5, 1997, the Board may approve any offset of a member's benefit to pay a judgment or settlement against the member for a crime involving the System or for a breach of the member's fiduciary duty to the System, provided

such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.

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

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

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

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

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

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

a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,

b. does not require the System to provide increased benefits, and

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

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

8. The alternate payee shall have a right to receive benefits payable to a member of the System under the Oklahoma Law Enforcement Deferred Option Plan provided for pursuant to Section 2-305.2 of this title, but only to the extent such benefits have been credited or paid into the member's Oklahoma Law Enforcement Deferred Option Plan account during the term of the marriage.

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

~~9.~~ 10. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

~~10.~~ 11. The Oklahoma Law Enforcement Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

~~11.~~ 12. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 2-305.1A, as last amended by Section 8, Chapter 152, O.S.L. 2007 (47 O.S. Supp. 2007, Section 2-305.1A), is amended to read as follows:

Section 2-305.1A 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 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. As used in this section:

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, as amended; and the portion of any distribution that is not includable in gross income~~; provided, however, that effective~~. 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:

a. from January 1, 2002, through December 31, 2006, to:

(1) an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or

(2) a qualified trust which is part of a defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code of 1986, as amended, and which agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable;

b. on or after January 1, 2007, to:

(1) an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or

(2) a qualified trust described in Section 401(a) or 403(a) of the Internal Revenue Code of 1986, as amended, or an annuity contract described in Section 403(b) of the Internal Revenue Code of

1986, as amended, and such trust or annuity contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately 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, as amended, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, as amended, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that accepts the Distributee's Eligible Rollover Distribution. Effective January 1, 2002, an Eligible Retirement Plan 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 2-303.3 of this title. An Eligible Retirement Plan does not include a Roth IRA under Section 408A 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 2-303.3 of this title, are Distributees with regard to the interest of the spouse or the former spouse. Effective for distributions after December 31, 2006, a Distributee also includes the member's nonspouse designated beneficiary, pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as amended. In the case of a nonspouse beneficiary, the Direct Rollover may be made only to an Individual Retirement Account or annuity (other than an endowment contract) described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, ("IRA"), that is established on behalf of such designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also, in this case, the determination of any required minimum distribution under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, that is

ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, Announcement 2007-5 Internal Revenue Bulletin 395. The required minimum distribution rules of Section 401(a)(9)B), other than clause iv thereof, of the Internal Revenue Code of 1986, as amended, apply to the transferee IRA.

4. "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee or, on or after January 1, 2008, to a Roth IRA under Section 408A of the Internal Revenue Code of 1986, as amended, as specified by the Distributee, assuming the Distributee otherwise meets the Roth IRA requirements.

C. At least thirty (30) days before and, effective January 1, 2007, not more than one hundred eighty (180) days before the date of distribution, the Distributee must be provided with a notice of rights which satisfies 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 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 3. AMENDATORY 47 O.S. 2001, Section 2-305.4, as last amended by Section 21, Chapter 46, 2nd Extraordinary Session, O.S.L. 2006 (47 O.S. Supp. 2007, Section 2-305.4), is amended to read as follows:

Section 2-305.4 A. Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member in the Oklahoma Law Enforcement Retirement System shall be subject to the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, in accordance with the provisions of ~~subsections B and C of~~ this section.

B. Except as provided ~~in paragraphs 3 through 7 of this subsection~~ below, effective for limitation years ending after December 31, 2001, any accrued retirement benefit payable to a member as an annual benefit as described below shall not exceed ~~the lesser of:~~

~~1.~~ One Hundred Sixty Thousand Dollars ($160,000.00), ~~effective January 1, 2002,~~ automatically adjusted under Section 415(d) of the Internal Revenue Code of 1986, as amended, for increases in the cost of living, as prescribed by the Secretary of the Treasury or the Secretary's delegate, effective January 1 of each calendar year and applicable to the limitation year ending with or within such calendar year~~; or~~

~~2. For 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 paragraph, earnings for any limitation year shall be the earned income of the member, wages, salaries, fees for professional services, and other amounts received for personal services actually rendered in the course of employment with a participating employer, provided such amounts are actually paid or includable in gross income during such year. Earnings shall exclude the following:~~

~~a. contributions by a participating employer 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~~

~~b. other amounts which received special tax benefits, or contributions made by a participating employer, 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, whether or not the amounts are actually excludable from the gross income of the member;~~

~~3. Except as provided in paragraph 5 of this subsection, the limitations specified in paragraphs 1 and 2 of this subsection 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, as amended, maintained by a participating employer;~~.

The automatic annual adjustment of the dollar limitation in this subsection under Section 415(d) of the Internal Revenue Code of 1986, as amended, shall apply to a member who has had a separation from employment.

1. The member's annual benefit is a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this section. For a member who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date and shall satisfy the limitations of this section as of each such date, actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Section 1.401(a)-20, Q&A 10(d), and with regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

2. No actuarial adjustment to the benefit shall be made for:

a. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form,

b. benefits that are not directly related to retirement benefits such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits, or

c. the inclusion in the form of a benefit of an automatic benefit increase feature, provided, the form of benefit is not subject to Section 417(e)(3) of the Internal Revenue Code of 1986, as amended, and would otherwise satisfy the limitations of this section, and the System provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this section applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code of 1986, as amended. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

3. The determination of the annual benefit shall take into account Social Security supplements described in Section 411(a)(9) of the Internal Revenue Code of 1986, as amended, and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c), of the Income Tax Regulations, but shall disregard benefits attributable to employee contributions or rollover contributions.

4. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with paragraph 5 or paragraph 6 of this subsection.

5. The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph if the form of the member's benefit is either:

a. a non-decreasing annuity, other than a straight life annuity, payable for a period of not less than the life of the member or, in the case of a qualified preretirement survivor annuity, the life of the surviving spouse,

b. an annuity that decreases during the life of the member merely because of:

(1) the death of the survivor annuitant, but only if the reduction is not below fifty percent (50%) of

the benefit payable before the death of the survivor annuitant, or

(2) the cessation or reduction of Social Security supplements or qualified disability payments as defined in Section 401(a)(11) of the Internal Revenue Code of 1986, as amended,

c. for limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(1) the interest rate and the mortality table or other tabular factor, each as set forth in subsection H of Section 2-303.1 of this title for adjusting benefits in the same form, and

(2) a five percent (5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62 for that annuity starting date, or

d. for limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(1) the annual amount of the straight life annuity, if any, payable to the member under the System commencing at the same annuity starting date as the member's form of benefit, and

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62 for that annuity starting date.

6. The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph if the form of the member's benefit is other than a benefit form described in paragraph 5 of this subsection. In this case, the actuarially equivalent straight life annuity shall be determined as follows:

a. if the annuity starting date of the member's form of benefit is in a plan year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of:

(1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the

member's form of benefit, computed using the interest rate and the mortality table or other tabular factor each as set forth in subsection H of Section 2-303.1 of this title for adjusting benefits in the same form,

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62, and

(3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using:

(a) the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the

successive period of one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, and

(b) the applicable mortality table described in Revenue Ruling 2001-62, divided by one and five one hundredths (1.05).

b. (1) if the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

(a) the interest rate and the mortality table or other tabular factor each as set forth in subsection H of Section 2-303.1 of this title for adjusting benefits in the same form, and

(b) a five and one-half percent (5.5%) interest rate assumption and the applicable mortality table described in Revenue Ruling 2001-62.

(2) if the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this subparagraph shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the System, taking into account the limitations of this section, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:

(a) the interest rate and mortality table or other tabular factor each as set forth in subsection H of Section 203.1 of this title for adjusting benefits in the same form,

(b) i. the rate of interest on thirty-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the

stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one plan year which contains the annuity starting date for the distribution and for which the applicable interest rate remains constant, and

ii. the applicable mortality table described in Revenue Ruling 2001-62, and

(c) i. the rate of interest on thirty-year (30) Treasury securities as specified by the Commissioner for the lookback month for the stability period specified below. The lookback month applicable to the stability period is the fourth calendar month preceding the first day of the stability period, as specified below. The stability period is the successive period of one plan year which contains the annuity starting date for the distribution and

for which the applicable interest rate remains constant as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the System then adopted and in effect, and

ii. the applicable mortality table described in Revenue Ruling 2001-62.

C. If a member has less than ten (10) years of participation in the System and all predecessor pension and retirement systems, the dollar limitation otherwise applicable under ~~paragraph 1 of this~~ subsection B of this section shall be ~~reduced by multiplying such limitation~~ multiplied 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 paragraph, to the extent required by the Secretary of the Treasury, shall be applied separately to each change in benefit structure hereunder;~~

~~5. 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 paragraph 3 of this subsection 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);~~

~~6. 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 divisions (1), (2) and (3) of subparagraph a and subparagraph c of this paragraph.~~

~~a. If payment begins before the member reaches sixty two (62) years of age, the limitation in paragraph 1 of this subsection 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 the Secretary's delegate.~~

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

~~(2) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this subparagraph shall be determined using the prevailing Commissioner's standard table (described in Section 807(d)(5)(A) of the Internal Revenue Code of 1986, as amended), without regard to any other subparagraph of Section 807(d)(5), used to determine reserves for group annuity contracts issued on the date as of which the payment is being determined. Notwithstanding any other~~

~~System provisions to the contrary, for distributions with annuity starting dates on or after December 31, 2002, the applicable mortality table used for purposes of adjusting any benefit or limitation under Sections 415(b)(2)(B), (C) or (D) of the Internal Revenue Code of 1986, as amended, is the table described in Rev. Rule. 2001-62. The interest rate shall be five percent (5%).~~

~~(3) For~~

D. Effective for benefits commencing in limitation years ending after December 31, 2001, the dollar limitation under subsection B of this section shall be adjusted if the annuity starting date of the member's benefit is before sixty-two (62) years of age or after sixty-five (65) years of age. If the annuity starting date is before sixty-two (62) years of age, the dollar limitation under subsection B of this section shall be adjusted under paragraph 1 of this subsection, as modified by paragraph 3 of this subsection, but subject to paragraph 4 of this subsection. If the annuity starting date is after sixty-five (65) years of age, the dollar limitation under subsection B of this section shall be adjusted under paragraph 2 of this subsection, as modified by paragraph 3 of this subsection.

1. a. If the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in

a limitation year beginning before July 1, 2007, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section adjusted under subsection C of this section for years of participation less than ten (10), if required, with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(1) the interest rate and the mortality table or other tabular factor each as set forth in subsection H of Section 2-303.1 of this title, or

(2) a five percent (5%) interest rate assumption and the applicable mortality table as described in Revenue Ruling 2001-62.

b. (1) if the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in a limitation year beginning on or after July 1, 2007, and the System does not have an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar

limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section adjusted under subsection C of this section for years of participation less than ten (10), if required, with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the annuity starting date as described in Revenue Ruling 2001-62 and expressing the member's age based on completed calendar months as of the annuity starting date, or

(2) if the annuity starting date for the member's benefit is prior to sixty-two (62) years of age and occurs in a limitation year beginning on or after July 1, 2007, and the System has an immediately commencing straight life annuity payable at both sixty-two (62) years of age and the age of benefit commencement, the dollar limitation for the member's annuity starting date is the lesser of the limitation determined under

division (1) of subparagraph b of this paragraph and the dollar limitation under subsection B of this section adjusted under subsection C of this section for years of participation less than ten (10), if required, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the System at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the System at sixty-two (62) years of age, both determined without applying the limitation of this section.

2. a. If the annuity starting date for the member's benefit is after sixty-five (65) years of age and occurs in a limitation year beginning before July 1, 2007, the dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section adjusted under subsection C of this section for years of participation less than ten (10), if required, with actuarial equivalence computed using

whichever of the following produces the smaller annual amount:

(1) the interest rate and the mortality table or other tabular factor each as set forth in subsection H of Section 2-303.1 of this title, or

(2) a five percent (5%) interest rate assumption and the applicable mortality table as described in Revenue Ruling 2001-62.

b. (1) If the annuity starting date for the member's benefit is after sixty-five (65) years of age and occurs in a limitation year beginning on or after July 1, 2007, and the System does not have an immediately commencing straight life annuity payable at both sixty-five (65) years of age and the age of benefit commencement, the dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under subsection B of this section adjusted under subsection C of this section for years of participation less than ten (10), if required, with actuarial equivalence computed using a five

1 percent (5%) interest rate assumption and the
2 applicable mortality table for the annuity
3 starting date as described in Revenue Ruling
4 2001-62 and expressing the member's age based on
5 completed calendar months as of the annuity
6 starting date.
7 (2) if the annuity starting date for the member's
8 benefit is after sixty-five (65) years of age and
9 occurs in a limitation year beginning on or after
10 July 1, 2007, and the System has an immediately
11 commencing straight life annuity payable at both
12 sixty-five (65) years of age and the age of
13 benefit commencement, the dollar limitation at
14 the member's annuity starting date is the lesser
15 of the limitation determined under division (1)
16 of subparagraph b of this paragraph and the
17 dollar limitation under subsection B of this
18 section adjusted under subsection C of this
19 section for years of participation less than ten
20 (10), if required, multiplied by the ratio of the
21 annual amount of the adjusted immediately
22 commencing straight life annuity under the System
23 at the member's annuity starting date to the
24 annual amount of the adjusted immediately

commencing straight life annuity under the System at sixty-five (65) years of age, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under the System at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after sixty-five (65) years of age but including actuarial adjustments even if those actuarial adjustments are used to offset accruals, and the adjusted immediately commencing straight life annuity under the System at sixty-five (65) years of age is the annual amount of such annuity that would be payable under the System to a hypothetical member who is sixty-five (65) years of age and has the same accrued benefit as the member.

3. Notwithstanding the other requirements of this subsection, no adjustment shall be made to the dollar limitation under subsection B of this section to reflect the probability of a member's death between the annuity starting date and sixty-two (62) years of age, or between sixty-five (65) years of age and the annuity starting date, as applicable, if benefits are not forfeited

upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the System does not charge members for providing a qualified preretirement survivor annuity, as defined in Section 417(c) of the Internal Revenue code of 1986, as amended, upon the member's death.

4. Notwithstanding any other provision to the contrary, for limitation years beginning on or after January 1, 1997, if payment begins before the member reached ~~age~~ sixty-two (62) years of age, the reductions in the limitations in this ~~subparagraph~~ subsection 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, as amended.

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

~~(1) For limitation years beginning before January 1, 1999, the interest rate to be used to determine such actuarial equivalent amount in this subparagraph shall be the rate specified in the actuarial tables adopted by the Board as~~

~~described in subparagraph c of this paragraph; however, the interest rate used in determining an actuarially equivalent post-age-sixty-five (65) amount shall not be greater than five percent (5%).~~

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

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

~~7.~~ E. Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a member under this System shall be deemed not to exceed the maximum permissible benefit if:

1. The retirement benefits payable for a limitation year under any form of benefit with respect to such member under this System and under all other defined benefit plans without regard to whether a plan has been terminated ever maintained by a participating

employer do not exceed Ten Thousand Dollars ($10,000.00) multiplied by a fraction:

a. the numerator of which is the member's number of credited years or part thereof, but not less than one (1) year of service not to exceed ten (10) with the participating employer, and

b. the denominator of which is ten (10), and

2. The participating employer or a predecessor employer has not at any time maintained a defined contribution plan in which the member participated for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under section 401(h) of the Internal Revenue Code of 1986, as amended, and accounts for postretirement medical benefits established under Section 419A(d)(1) of the Internal Revenue Code of 1986, as amended, are not considered a separate defined contribution plan.

F. 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.

~~8.~~ G. Effective for years beginning after December 31, 1997, if a member purchases service under 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:

~~a. treating~~

1. Treating the accrued benefit derived from such contributions as an annual benefit under subsection B of this section, or

~~b. treating~~

2. Treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code of 1986, as amended.

~~9.~~ H. Effective for years beginning after December 31, 1997, if a member repays to the System any amounts received because of the member's prior termination pursuant to paragraph 3 of subsection (b) of Section 2-307 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.

I. For limitation years beginning on or after January 1, 1995, ~~paragraphs 4, 5 and 6 of this~~ subsection C of this section,

paragraph 1 of subsection D of this section, and the proration provided under subparagraphs a and b of paragraph 1 of subsection E of this section, shall not apply to a benefit paid under the System as a 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.

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

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

SECTION 4. AMENDATORY 47 O.S. 2001, Section 2-307, as last amended by Section 22, Chapter 46, 2nd Extraordinary Session, O.S.L. 2006 (47 O.S. Supp. 2007, Section 2-307), is amended to read as follows:

Section 2-307. (a) In the event a member of the System obtains a leave of absence, of not to exceed ninety (90) days at any one time, because of injury or illness or for any personal reason other than the acceptance of other employment, the member's membership in the System shall not terminate and the period of such leave shall be counted toward retirement for length of service if, during such

leave of absence or at the end thereof, the member shall pay to the Fund an amount equal to the contributions which would have been deducted from the member's salary during such period if such leave of absence had not been obtained, but if such contributions are not paid during such leave or made up within thirty (30) days after the end of such leave, or if such leave of absence extends for more than ninety (90) days at any one time, the period of such leave shall not be counted toward length of service for retirement nor in computing the amount of any pension or any retirement pay or any other benefits hereunder.

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

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

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

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

4. A lump-sum payment for repayment of any amount received because of a member's prior termination may be repaid by:

a. a cash lump-sum payment,

b. a trustee-to-trustee transfer from a Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and/or a Code Section 401(a) qualified plan,

c. a direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth

IRAs, Coverdell Education Savings Accounts and after-tax contributions shall not be used to purchase such service credit, or

d. any combination of the above methods of payment.

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

(c) In determining the eligibility of a member for retirement based upon length of service, any service in the Armed Forces of the United States or any component thereof between the 16th day of September, 1940, and the 30th day of June, 1954, and any service in the Armed Forces of the United States or any component thereof upon call of the President of the United States or of the Governor of the State of Oklahoma, together with such prior service, as would have been otherwise considered as service for retirement for length of service, shall be considered as service for length of service, provided that the member returns and files application for reinstatement as a member of the System within ninety (90) days after the member's release, or opportunity for release, from such Armed Forces or component thereof. <u>The member's employing agency that is making contributions to the System on behalf of the member shall continue payment of contributions into the pension fund, to the same force and effect as though the member was in the actual</u>

employment of such agency at the same salary for a period not to exceed five (5) years. If such member shall have been refunded any portion of the membership contributions as provided in Section 2-308 of this title, the member shall be required to reimburse the Fund with the same amount at the time of the member's application for reinstatement in the System, before the reinstated member is given credit for accrued prior service. Provided, that in no event shall a member of the System who has entered such Armed Forces or component thereof prior to retirement be or become eligible for retirement for length of service unless the member shall thereafter have been reinstated as a member of the System as provided for herein, and thereafter remained a member for at least one (1) year after such reinstatement.

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

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

SECTION 5. AMENDATORY 47 O.S. 2001, Section 2-307.2, as amended by Section 24, Chapter 46, 2nd Extraordinary Session, O.S.L. 2006 (47 O.S. Supp. 2007, Section 2-307.2), is amended to read as follows:

Section 2-307.2 A. The total service credit of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred thirty (130) days of unused sick leave accumulated while a member of the System. Such credit shall be added in terms of whole months. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of service credit. If unused sick leave entitles a member to an additional year or fraction thereof of service credit, the member's employer shall reimburse the System for the cost of funding the additional reserve by paying the amount determined by the Board pursuant to Section 25 of this act. Each employer shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this section. This section shall apply to members retiring or vesting on or after July 1, 1985, and shall not be retroactive. <u>The amount of accrued sick leave available for determination of a member’s monthly benefit for purposes of the deferred option election shall be limited to the accrued sick leave available as of the effective date of the deferred option election, but not to exceed one hundred thirty (130) days. The member’s monthly benefit determined as of the effective date of the deferred</u>

option election shall not be adjusted for additional accrued sick leave earned by the member after the deferred option election.

B. Whenever any member is unable to perform the member's duties because of sickness or temporary disability caused or sustained while in the discharge of the member's duty as a member, is receiving a temporary total disability benefit under Section 1 et seq. of Title 85 of the Oklahoma Statutes, and does not purchase service credit as described below, such member shall only receive prorated service credit based on the contributions made by the member and the member's employer while the member is receiving a temporary total disability benefit under Section 1 et seq. of Title 85 of the Oklahoma Statutes. Whenever any member is unable to perform the member's duties because of sickness or temporary disability caused or sustained while in the discharge of the member's duty as a member and is receiving a temporary disability benefit under Section 1 et seq. of Title 85 of the Oklahoma Statutes, such member shall have the option to purchase service credit for the time related to such leave of absence for such sickness or temporary disability.

1. The payment for such purchase must be completed no later than three (3) years from the date the member commenced receipt of a temporary total disability benefit.

2. The purchase price shall be:

a. the actual paid base salary that the member was entitled to immediately prior to the member's sickness or temporary disability minus any vacation or sick leave payments received by the member during such sickness or temporary disability, multiplied by,

b. the following percent:

(1) eighteen percent (18%) for members who are suspended without pay, or

(2) eight percent (8%) for members who are not suspended without pay.

If such member has not been suspended without pay, the employer shall contribute, within three (3) months of the completion of the member's purchase of service credit, ten percent (10%) of the actual paid base salary that the member was entitled to immediately prior to the member's sickness or temporary disability minus any vacation or sick leave payments received by the member during such sickness or temporary disability.

3. The member may purchase such service credit through:

a. a cash lump-sum payment,

b. a trustee-to-trustee transfer from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer

described in Code Section 457(e)(1)(A), and/or a Code Section 401(a) qualified plan,

c. a direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth IRAs, Coverdell Education Savings Accounts and after-tax contributions shall not be used to purchase such service credit, or

d. any combination of the above methods of payment.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 2-309.8, is amended to read as follows:

Section 2-309.8 A. Any state employee who is employed in a commissioned officer position of the Oklahoma Highway Patrol Division, ~~including the Capitol Patrol Section and the Lake Patrol Section of the Department of Public Safety,~~ the Oklahoma State Bureau of Investigation, the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, a Parks Ranger of the Tourism and Recreation Department, and a Pharmacy Inspector of the Pharmacy Board shall be eligible for

service credit for employment prior to July 1, 1993, if the employee was in a commissioned officer position in the former Oklahoma Capitol Patrol Division, the former Mansion Security, and the former Training Center Security of the Department of Public Safety and the employee was a full-time, active employee eligible for all state employee benefits.

B. An eligible member of the System shall receive credit for all prior service as provided in subsection A of this section, provided the member is not receiving or eligible to receive retirement credit or benefits for such service in any other public retirement system. Service credit received pursuant to this section shall be used in determining the years of service for retirement and vesting purposes.

C. To receive credit for such service, an eligible member, as provided in this section, who became a member of the System prior to July 1, 1993, shall make application to the Board in writing for such service prior to July 1, 2002.

SECTION 7. This act shall become effective July 1, 2008.

SECTION 8. 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 3rd day of March, 2008.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2008.

_____
Presiding Officer of the House of Representatives