

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

SENATE BILL 830

By: Brown

AS INTRODUCED

An Act relating to retirement; amending 11 O.S. 2001, Sections 50-101, as last amended by Section 1, Chapter 137, O.S.L. 2003, 50-114, as last amended by Section 2, Chapter 152, O.S.L. 2007, 50-114.1, as last amended by Section 5, Chapter 177, O.S.L. 2008, Section 4, Chapter 152, O.S.L. 2007, 50-115, as last amended by Section 6, Chapter 152, O.S.L. 2007 and 50-128, as last amended by Section 4, Chapter 137, O.S.L. 2005 (11 O.S. Supp. 2008, Sections 50-101, 114, 114.1, 50-114.3, 50-115 and 50-128), which relate to the Oklahoma Police Pension and Retirement System; modifying definition; updating statutory citation; specifying that certain limitation is not applicable to certain members; clarifying requirements for certain accounts or annuities; updating statutory citation; allowing certain survivors to be entitled to certain additional benefits; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 50-101, as last amended by Section 1, Chapter 137, O.S.L. 2003 (11 O.S. Supp. 2008, Section 50-101), is amended to read as follows:

Section 50-101. As used in this article:

- 1 1. "System" means the Oklahoma Police Pension and Retirement
2 System and all predecessor municipal Police Pension and Retirement
3 Systems;
- 4 2. "Article" means Article 50 of this title;
- 5 3. "State Board" means the Oklahoma Police Pension and
6 Retirement Board;
- 7 4. "Fund" means the Oklahoma Police Pension and Retirement
8 Fund;
- 9 5. "Officer" means any duly appointed and sworn full-time
10 officer of the regular police department of a municipality whose
11 duties are to preserve the public peace, protect life and property,
12 prevent crime, serve warrants, enforce all laws and municipal
13 ordinances of this state, and any political subdivision thereof, and
14 who is authorized to bear arms in the execution of such duties;
- 15 6. "Member" means all eligible officers of a participating
16 municipality and any person hired by a participating municipality
17 who is undergoing police training to become a permanent police
18 officer of the municipality. Effective July 1, 1987, a member does
19 not include a "leased employee" as defined under Section 414(n)(2)
20 of the Internal Revenue Code of 1986, as amended. Effective July 1,
21 1999, any individual who agrees with the participating municipality
22 that the individual's services are to be performed as a leased
23 employee or an independent contractor shall not be a member
24 regardless of any classification as a common law employee by the

1 Internal Revenue Service or any other governmental agency, or any
2 court of competent jurisdiction. A member shall include eligible
3 commissioned officers of the Oklahoma State Bureau of Narcotics and
4 Dangerous Drugs Control, the Oklahoma State Bureau of Investigation,
5 and the Alcoholic Beverage Laws Enforcement Commission who elect to
6 participate in the System pursuant to Section 50-111.5 of this
7 title;

8 7. "Normal retirement date" means the date at which the member
9 is eligible to receive the unreduced payments of the member's
10 accrued retirement benefit. Such date shall be the first day of the
11 month coinciding with or following the date the member completes
12 twenty (20) years of credited service. If the member's employment
13 continues past the normal retirement date of the member, the actual
14 retirement date of the member shall be the first day of the month
15 after the member terminates employment with more than twenty (20)
16 years of credited service;

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

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

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

20 11. "Permanent partial disability" means permanent disability
21 which is less than permanent total disability as defined in this
22 section. The member must be declared no greater than ninety-nine
23 percent (99%) impaired as defined by the "American Medical
24 Association's Guides to the Evaluation of Permanent Impairment" on

1 the basis of a physical medical examination by a physician licensed
2 to practice medicine in this state, as selected by the State Board;

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

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

1 officer shall not be subject to the thirty-month adoption
2 requirement. This definition of beneficiary shall be in addition to
3 any other requirement set forth in this article;

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

6 15. "Eligible employer" means any municipality with a municipal
7 police department;

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

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

15 a. Base salary shall not include payment for accumulated
16 sick and annual leave upon termination of employment,
17 severance pay or any uniform allowances. Provided,
18 for purposes of determining the normal disability
19 benefit, final average salary shall be based on the
20 member's total service if less than thirty (30)
21 months. Base salary shall include any amount of
22 elective salary reduction under Section 457 of the
23 Internal Revenue Code of 1986, as amended, and any
24 amount of nonelective salary reduction under Section

1 414(h) of the Internal Revenue Code of 1986, as
2 amended. Effective January 1, 1988, base salary shall
3 include any amount of elective salary reduction under
4 Section 125 of the Internal Revenue Code of 1986, as
5 amended. Effective July 1, 1998, gross salary shall
6 include any amount of elective salary reduction not
7 includable in the gross income of the member under
8 Section 132(f)(4) of the Internal Revenue Code of
9 1986, as amended. Only salary on which required
10 contributions have been made may be used in computing
11 the final average salary.

- 12 b. In addition to other applicable limitations, and
13 notwithstanding any other provision to the contrary,
14 for plan years beginning on or after July 1, 2002, the
15 annual compensation of each "Noneligible Member" taken
16 into account under the System shall not exceed the
17 Economic Growth and Tax Relief Reconciliation Act of
18 2001 (EGTRRA) annual compensation limit. The EGTRRA
19 annual compensation limit is Two Hundred Thousand
20 Dollars (\$200,000.00), as adjusted by the Commissioner
21 for increases in the cost of living in accordance with
22 Section 401(a)(17)(B) of the Internal Revenue Code of
23 1986, as amended. The annual compensation limit in
24 effect for a calendar year applies to any period, not

1 exceeding twelve (12) months, over which compensation
2 is determined ("determination period") beginning in
3 such calendar year. If a determination period
4 consists of fewer than twelve (12) months, the EGTRRA
5 annual compensation limit will be multiplied by a
6 fraction, the numerator of which is the number of
7 months in the determination period, and the
8 denominator of which is twelve (12). For purposes of
9 this section, a "Noneligible Member" is any member who
10 first became a member during a plan year commencing on
11 or after July 1, 1996.

12 c. For plan years beginning on or after July 1, 2002, any
13 reference in the System to the annual compensation
14 limit under Section 401(a)(17) of the Internal Revenue
15 Code of 1986, as amended, shall mean the EGTRRA annual
16 compensation limit set forth in this provision.

17 d. Effective January 1, 2008, base salary shall also
18 include base salary, as described above, but paid by
19 the later of two and one-half (2 1/2) months after a
20 member's severance from employment or the end of the
21 plan year that includes the date the member terminated
22 employment, if it is a payment that, absent a
23 severance from employment, would have been paid to the
24

1 member while the member continued in employment with
2 the participating municipality.

3 e. Effective January 1, 2008, any payments not described
4 above shall not be considered gross salary if paid
5 after severance from employment, even if they are paid
6 by the later of two and one-half (2 1/2) months after
7 the date of severance from employment or the end of
8 the plan year that includes the date of severance from
9 employment, except, payments to an individual who does
10 not currently perform services for the participating
11 municipality by reason of qualified military service
12 within the meaning of Section 414(u)(5) of the
13 Internal Revenue Code of 1986, as amended, to the
14 extent these payments do not exceed the amounts the
15 individual would have received if the individual had
16 continued to perform services for the participating
17 municipality rather than entering qualified military
18 service.

19 f. Effective January 1, 2008, back pay, within the
20 meaning of Section 1.415 (c)-2(g)(8) of the Income Tax
21 Regulations, shall be treated as base salary for the
22 plan year to which the back pay relates to the extent
23 the back pay represents wages and compensation that
24 would otherwise be included in this definition.

1 g. Effective for years beginning after December 31, 2008,
2 base salary shall also include differential wage
3 payments under Section 414(u)(12) of the Internal
4 Revenue Code of 1986, as amended;

5 18. "Accrued retirement benefit" means two and one-half percent
6 (2 1/2%) of the member's final average salary multiplied by the
7 member's years of credited service not to exceed thirty (30) years;

8 19. "Normal disability benefit" means two and one-half percent
9 (2 1/2%) of the member's final average salary multiplied by twenty
10 (20) years;

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

14 21. "Paid base salary" means, effective May 1, 2002, all
15 compensation that shall include longevity, educational allowances,
16 and normal compensation paid on a regularly scheduled pay period of
17 which said pay period shall include holidays, annual leave and sick
18 leave. Paid base salary shall not include overtime, shall not
19 include payment for accumulated sick and annual leave upon
20 termination of employment, and shall not include any uniform
21 allowance or any other compensation for reimbursement of out-of-
22 pocket expenses; and

23 22. "Actuarial equivalent" means equality in value of the
24 aggregate amounts expected to be received based on interest rate and

1 mortality assumptions set by the State Board, in a manner that
2 precludes employer discretion, and based upon recommendations from
3 independent professional advisors, and which shall be published
4 annually in the actuarial report.

5 SECTION 2. AMENDATORY 11 O.S. 2001, Section 50-114, as
6 last amended by Section 2, Chapter 152, O.S.L. 2007 (11 O.S. Supp.
7 2008, Section 50-114), is amended to read as follows:

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

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

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

21 3. The member must have complied with any agreement as to
22 contributions by the member and other members to any funds of the
23 System where said agreement has been made as provided by this
24 article; provided, that should a retired member receive disability

1 benefits as provided in this and other sections of this article, the
2 time the retired member is receiving said disability benefits shall
3 count as time on active service if the retired member should be
4 recalled by the Chief of Police from said disability retirement. It
5 shall be necessary before said time shall be counted toward
6 retirement that the retired member make the same contribution as the
7 member would have otherwise made if on active service for the time
8 the retired member was disabled.

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

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

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

21 2. The actual retirement date of the member.

22 For distributions made for calendar years beginning on or after
23 January 1, 2001 through December 31, 2004, the System shall apply
24 the minimum distribution requirements and incidental benefit

1 requirements of Section 401(a)(9) of the Internal Revenue Code of
2 1986, as amended, in accordance with the regulations under Section
3 401(a)(9) of the Internal Revenue Code of 1986, as amended, which
4 were proposed on January 17, 2001, notwithstanding any provision of
5 the System to the contrary. For distributions made for calendar
6 years beginning on or after January 1, 2005, the System shall apply
7 the minimum distribution incidental benefit requirements, incidental
8 benefit requirements, and minimum distribution requirements of
9 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
10 in accordance with the final regulations under Section 401(a)(9) of
11 the Internal Revenue Code of 1986, as amended, which were issued in
12 April 2002 and June 2004, notwithstanding any provision of the
13 System to the contrary.

14 D. In the event of the death of any member who has been awarded
15 a retirement benefit or is eligible therefor as provided in this
16 section, such member's beneficiaries shall be paid such retirement
17 benefit. The remaining portion of the member's retirement benefit
18 shall be distributed to the beneficiaries at least as rapidly as
19 under the method of distribution to the member. Effective March 1,
20 1997, if a member to whom a retirement benefit has been awarded or
21 who is eligible therefor dies prior to the date as of which the
22 total amount of retirement benefit paid equals the total amount of
23 the employee contributions paid by or on behalf of the member and
24 the member does not have a surviving beneficiary, the total benefits

1 paid as of the date of the member's death shall be subtracted from
2 the accumulated employee contribution amount and the balance, if
3 greater than zero (0), shall be paid to the member's estate.

4 E. The State Board may review and affirm a member's request for
5 retirement benefits prior to the member's normal retirement date
6 provided that no retirement benefits are paid prior to the normal
7 retirement date.

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

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

21 H. If the requirements of Section ~~5~~ 50-114.4 of this ~~act~~ title
22 are satisfied, a member who, by reason of attainment of normal
23 retirement date or age, is separated from service as a public safety
24 officer with the member's participating municipality, may elect to

1 have payment made directly to the provider for qualified health
2 insurance premiums by deduction from his or her monthly pension
3 payment, after December 31, 2006, in accordance with Section 402(l)
4 of the Internal Revenue Code of 1986, as amended.

5 SECTION 3. AMENDATORY 11 O.S. 2001, Section 50-114.1, as
6 last amended by Section 5, Chapter 177, O.S.L. 2008 (11 O.S. Supp.
7 2008, Section 50-114.1), is amended to read as follows:

8 Section 50-114.1 A. Notwithstanding any other provision
9 contained herein to the contrary, the benefits payable to a member
10 from the System provided by employer contributions (including
11 contributions picked up by the employer under Section 414(h) of the
12 Internal Revenue Code of 1986, as amended) shall be subject to the
13 limitations of Section 415 of the Internal Revenue Code of 1986, as
14 amended, in accordance with the provisions of this section. The
15 limitations of this section shall apply in limitation years
16 beginning on or after July 1, 2007, except as otherwise provided
17 below.

18 B. Except as provided below, effective for limitation years
19 ending after December 31, 2001, any accrued retirement benefit
20 payable to a member as an annual benefit as described below shall
21 not exceed One Hundred Sixty Thousand Dollars (\$160,000.00),
22 automatically adjusted under Section 415(d) of the Internal Revenue
23 Code of 1986, as amended, for increases in the cost of living, as
24 prescribed by the Secretary of the Treasury or the Secretary's

1 delegate, effective January 1 of each calendar year and applicable
2 to the limitation year ending with or within such calendar year.
3 The automatic annual adjustment of the dollar limitation in this
4 subsection under Section 415(d) of the Internal Revenue Code of
5 1986, as amended, shall apply to a member who has had a separation
6 from employment.

7 1. The member's annual benefit is a benefit that is payable
8 annually in the form of a straight life annuity. Except as provided
9 below, where a benefit is payable in a form other than a straight
10 life annuity, the benefit shall be adjusted to an actuarially
11 equivalent straight life annuity that begins at the same time as such
12 other form of benefit and is payable on the first day of each month,
13 before applying the limitations of this section. For a member who
14 has or will have distributions commencing at more than one annuity
15 starting date, the annual benefit shall be determined as of each such
16 annuity starting date (and shall satisfy the limitations of this
17 section as of each such date), actuarially adjusting for past and
18 future distributions of benefits commencing at the other annuity
19 starting dates. For this purpose, the determination of whether a new
20 starting date has occurred shall be made without regard to Section
21 1.401(a)-20, Q&A 10(d), and with regard to Section 1.415(b)-
22 1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

23 2. No actuarial adjustment to the benefit shall be made for:
24

- 1 a. survivor benefits payable to a surviving spouse under a
2 qualified joint and survivor annuity to the extent such
3 benefits would not be payable if the member's benefit
4 were paid in another form,
- 5 b. benefits that are not directly related to retirement
6 benefits (such as a qualified disability benefit,
7 preretirement incidental death benefits, and
8 postretirement medical benefits), or
- 9 c. the inclusion in the form of benefit of an automatic
10 benefit increase feature, provided the form of benefit
11 is not subject to Section 417(e)(3) of the Internal
12 Revenue Code of 1986, as amended, and would otherwise
13 satisfy the limitations of this section, and the System
14 provides that the amount payable under the form of
15 benefit in any limitation year shall not exceed the
16 limits of this section applicable at the annuity
17 starting date, as increased in subsequent years
18 pursuant to Section 415(d) of the Internal Revenue Code
19 of 1986, as amended. For this purpose, an automatic
20 benefit increase feature is included in a form of
21 benefit if the form of benefit provides for automatic,
22 periodic increases to the benefits paid in that form.

23 3. The determination of the annual benefit shall take into
24 account Social Security supplements described in Section 411(a)(9) of

1 the Internal Revenue Code of 1986, as amended, and benefits
2 transferred from another defined benefit plan, other than transfers
3 of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c),
4 of the Income Tax Regulations, but shall disregard benefits
5 attributable to employee contributions or rollover contributions.

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

10 5. Benefit Forms Not Subject to Section 417(e)(3) of the
11 Internal Revenue Code of 1986, as amended: The straight life
12 annuity that is actuarially equivalent to the member's form of
13 benefit shall be determined under this paragraph 5 if the form of
14 the member's benefit is either:

15 a. a nondecreasing annuity (other than a straight life
16 annuity) payable for a period of not less than the life
17 of the member (or, in the case of a qualified
18 preretirement survivor annuity, the life of the
19 surviving spouse), or

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

22 (1) the death of the survivor annuitant (but only if
23 the reduction is not below fifty percent (50%) of
24

1 the benefit payable before the death of the
2 survivor annuitant), or

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

7 c. Limitation Years Beginning Before July 1, 2007. For
8 limitation years beginning before July 1, 2007, the
9 actuarially equivalent straight life annuity is equal
10 to the annual amount of the straight life annuity
11 commencing at the same annuity starting date that has
12 the same actuarial present value as the member's form
13 of benefit computed using whichever of the following
14 produces the greater annual amount:

15 (1) the interest rate and the mortality table (or
16 other tabular factor), each as set forth in
17 subsection G of Section 50-105.4 of this title for
18 adjusting benefits in the same form; and

19 (2) a five percent (5%) interest rate assumption and
20 the applicable mortality table described in Rev.
21 Rul. 2001-62 for that annuity starting date.

22 d. Limitation Years Beginning On Or After July 1, 2007.
23 For limitation years beginning on or after July 1,
24

1 2007, the actuarially equivalent straight life annuity
2 is equal to the greater of:

- 3 (1) the annual amount of the straight life annuity (if
4 any) payable to the member under the System
5 commencing at the same annuity starting date as
6 the member's form of benefit, and
7 (2) the annual amount of the straight life annuity
8 commencing at the same annuity starting date that
9 has the same actuarial present value as the
10 member's form of benefit, computed using a five
11 percent (5%) interest rate assumption and the
12 applicable mortality table described in Rev. Rul.
13 2001-62 for that annuity starting date.

14 6. Benefit Forms Subject to Section 417(e)(3) of the Internal
15 Revenue Code of 1986, as amended: The straight life annuity that is
16 actuarially equivalent to the member's form of benefit shall be
17 determined under this paragraph 6 if the form of the member's benefit
18 is other than a benefit form described in paragraph 5 of this
19 subsection. In this case, the actuarially equivalent straight life
20 annuity shall be determined as follows:

- 21 a. Annuity Starting Date in Plan Years Beginning After
22 2005. If the annuity starting date of the member's
23 form of benefit is in a plan year beginning after 2005,
24

1 the actuarially equivalent straight life annuity is
2 equal to the greatest of:

3 (1) the annual amount of the straight life annuity
4 commencing at the same annuity starting date that
5 has the same actuarial present value as the
6 member's form of benefit, computed using the
7 interest rate and the mortality table (or other
8 tabular factor) each as set forth in subsection G
9 of Section 50-105.4 of this title for adjusting
10 benefits in the same form,

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

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

22 (a) the rate of interest on thirty-year Treasury
23 securities as specified by the Commissioner
24 for the lookback month for the stability

1 period specified below. The lookback month
2 applicable to the stability period is the
3 fourth calendar month preceding the first day
4 of the stability period, as specified below.
5 The stability period is the successive period
6 of one (1) plan year which contains the
7 annuity starting date for the distribution
8 and for which the applicable interest rate
9 remains constant, and

10 (b) the applicable mortality table described in
11 Rev. Rul. 2001-62,
12 divided by one and five one-hundredths (1.05).

13 b. Annuity Starting Date in Plan Years Beginning in 2004
14 or 2005:

15 (1) If the annuity starting date of the member's form
16 of benefit is in a plan year beginning in 2004 or
17 2005, the actuarially equivalent straight life
18 annuity is equal to the annual amount of the
19 straight life annuity commencing at the same
20 annuity starting date that has the same actuarial
21 present value as the member's form of benefit,
22 computed using whichever of the following produces
23 the greater annual amount:
24

1 (a) the interest rate and the mortality table (or
2 other tabular factor) each as set forth in
3 subsection G of Section 50-105.4 of this
4 title for adjusting benefits in the same
5 form, and

6 (b) a five and one-half percent (5.5%) interest
7 rate assumption and the applicable mortality
8 table described in Rev. Rul. 2001-62.

9 (2) If the annuity starting date of the member's
10 benefit is on or after the first day of the first
11 plan year beginning in 2004 and before December
12 31, 2004, the application of this subparagraph b
13 shall not cause the amount payable under the
14 member's form of benefit to be less than the
15 benefit calculated under the System, taking into
16 account the limitations of this section, except
17 that the actuarially equivalent straight life
18 annuity is equal to the annual amount of the
19 straight life annuity commencing at the same
20 annuity starting date that has the same actuarial
21 present value as the member's form of benefit,
22 computed using whichever of the following produces
23 the greatest annual amount:
24

1 (a) the interest rate and mortality table (or
2 other tabular factor) each as set forth in
3 subsection G of Section 50-105.4 of this
4 title for adjusting benefits in the same
5 form,

6 (b) (i) the rate of interest on thirty-year
7 Treasury securities as specified by the
8 Commissioner for the lookback month for
9 the stability period specified below.
10 The lookback month applicable to the
11 stability period is the fourth calendar
12 month preceding the first day of the
13 stability period, as specified below.
14 The stability period is the successive
15 period of one (1) plan year which
16 contains the annuity starting date for
17 the distribution and for which the
18 applicable interest rate remains
19 constant, and

20 (ii) the applicable mortality table described
21 in Rev. Rul. 2001-62, and

22 (c) (i) the rate of interest on thirty-year
23 Treasury securities as specified by the
24 Commissioner for the lookback month for

1 the stability period specified below.

2 The lookback month applicable to the
3 stability period is the fourth calendar
4 month preceding the first day of the
5 stability period, as specified below.

6 The stability period is the successive
7 period of one (1) plan year which
8 contains the annuity starting date for
9 the distribution and for which the
10 applicable interest rate remains
11 constant (as in effect on the last day
12 of the last plan year beginning before
13 January 1, 2004, under provisions of the
14 System then adopted and in effect), and

15 (ii) the applicable mortality table described
16 in Rev. Rul. 2001-62.

17 7. The foregoing limitation shall not be applicable with respect
18 to any member whose annual benefits from the System and under all
19 other defined benefit plans of the participating municipality are
20 less than Ten Thousand Dollars (\$10,000.00) for the year or from any
21 prior year, if such member has not at any time participated in any
22 defined contribution plan maintained by the participating
23 municipality.
24

1 C. If a member has less than ten (10) years of participation in
2 the System and all predecessor municipal police pension and
3 retirement systems, the dollar limitation otherwise applicable under
4 subsection B of this section shall be multiplied by a fraction, the
5 numerator of which is the number of the years of participation in
6 the System of the member, but never less than one (1), and the
7 denominator of which is ten (10).

8 D. Adjustment of Dollar Limitation for Benefit Commencement
9 Before Age Sixty-two (62) or After Age Sixty-five (65): Effective
10 for benefits commencing in limitation years ending after December 31,
11 2001, the dollar limitation under subsection B of this section shall
12 be adjusted if the annuity starting date of the member's benefit is
13 before age sixty-two (62) or after age sixty-five (65). If the
14 annuity starting date is before age sixty-two (62), the dollar
15 limitation under subsection B of this section shall be adjusted under
16 paragraph 1 of this subsection, as modified by paragraph 3 of this
17 subsection, but subject to paragraph 4 of this subsection. If the
18 annuity starting date is after age sixty-five (65), the dollar
19 limitation under subsection B of this section shall be adjusted under
20 paragraph 2 of this subsection, as modified by paragraph 3 of this
21 subsection.

22 1. Adjustment of Defined Benefit Dollar Limitation for Benefit
23 Commencement Before Age Sixty-two (62):
24

1 a. Limitation Years Beginning Before July 1, 2007. If the
2 annuity starting date for the member's benefit is prior
3 to age sixty-two (62) and occurs in a limitation year
4 beginning before July 1, 2007, the dollar limitation
5 for the member's annuity starting date is the annual
6 amount of a benefit payable in the form of a straight
7 life annuity commencing at the member's annuity
8 starting date that is the actuarial equivalent of the
9 dollar limitation under subsection B of this section
10 (adjusted under subsection C of this section for years
11 of participation less than ten (10), if required) with
12 actuarial equivalence computed using whichever of the
13 following produces the smaller annual amount:

- 14 (1) the interest rate and the mortality table (or
15 other tabular factor) each as set forth in
16 subsection G of Section 50-105.4 of this title, or
17 (2) a five-percent interest rate assumption and the
18 applicable mortality table as described in Rev.
19 Rul. 2001-62.

20 b. Limitation Years Beginning On Or After July 1, 2007.

- 21 (1) System Does Not Have Immediately Commencing
22 Straight Life Annuity Payable at Both Age Sixty-
23 two (62) and the Age of Benefit Commencement. If
24 the annuity starting date for the member's benefit

1 is prior to age sixty-two (62) and occurs in a
2 limitation year beginning on or after July 1,
3 2007, and the System does not have an immediately
4 commencing straight life annuity payable at both
5 age sixty-two (62) and the age of benefit
6 commencement, the dollar limitation for the
7 member's annuity starting date is the annual
8 amount of a benefit payable in the form of a
9 straight life annuity commencing at the member's
10 annuity starting date that is the actuarial
11 equivalent of the dollar limitation under
12 subsection B of this section (adjusted under
13 subsection C of this section for years of
14 participation less than ten (10), if required)
15 with actuarial equivalence computed using a five-
16 percent interest rate assumption and the
17 applicable mortality table for the annuity
18 starting date as described in Rev. Rul. 2001-62
19 (and expressing the member's age based on
20 completed calendar months as of the annuity
21 starting date).

- 22 (2) System Has Immediately Commencing Straight Life
23 Annuity Payable at Both Age Sixty-two (62) and the
24 Age of Benefit Commencement. If the annuity

1 starting date for the member's benefit is prior to
2 age sixty-two (62) and occurs in a limitation year
3 beginning on or after July 1, 2007, and the System
4 has an immediately commencing straight life
5 annuity payable at both age sixty-two (62) and the
6 age of benefit commencement, the dollar limitation
7 for the member's annuity starting date is the
8 lesser of the limitation determined under division
9 (1) of subparagraph b of this paragraph and the
10 dollar limitation under subsection B of this
11 section (adjusted under subsection C of this
12 section for years of participation less than ten
13 (10), if required) multiplied by the ratio of the
14 annual amount of the immediately commencing
15 straight life annuity under the System at the
16 member's annuity starting date to the annual
17 amount of the immediately commencing straight life
18 annuity under the System at age sixty-two (62),
19 both determined without applying the limitations
20 of this section.

21 2. Adjustment of Defined Benefit Dollar Limitation for Benefit
22 Commencement After Age Sixty-five (65):

- 23 a. Limitation Years Beginning Before July 1, 2007. If the
24 annuity starting date for the member's benefit is after

1 age sixty-five (65) and occurs in a limitation year
2 beginning before July 1, 2007, the dollar limitation
3 for the member's annuity starting date is the annual
4 amount of a benefit payable in the form of a straight
5 life annuity commencing at the member's annuity
6 starting date that is the actuarial equivalent of the
7 dollar limitation under subsection B of this section
8 (adjusted under subsection C of this section for years
9 of participation less than ten (10), if required) with
10 actuarial equivalence computed using whichever of the
11 following produces the smaller annual amount:

- 12 (1) the interest rate and the mortality table (or
13 other tabular factor) each as set forth in
14 subsection G of Section 50-105.4 of this title, or
- 15 (2) a five-percent interest rate assumption and the
16 applicable mortality table as described in Rev.
17 Rul. 2001-62.

18 b. Limitation Years Beginning On Or After July 1, 2007.

- 19 (1) System Does Not Have Immediately Commencing
20 Straight Life Annuity Payable at Both Age Sixty-
21 five (65) and the Age of Benefit Commencement. If
22 the annuity starting date for the member's benefit
23 is after age sixty-five (65) and occurs in a
24 limitation year beginning on or after July 1,

1 2007, and the System does not have an immediately
2 commencing straight life annuity payable at both
3 age sixty-five (65) and the age of benefit
4 commencement, the dollar limitation at the
5 member's annuity starting date is the annual
6 amount of a benefit payable in the form of a
7 straight life annuity commencing at the member's
8 annuity starting date that is the actuarial
9 equivalent of the dollar limitation under
10 subsection B of this section (adjusted under
11 subsection C of this section for years of
12 participation less than ten (10), if required)
13 with actuarial equivalence computed using a five-
14 percent interest rate assumption and the
15 applicable mortality table for the annuity
16 starting date as described in Rev. Rul. 2001-62
17 (and expressing the member's age based on
18 completed calendar months as of the annuity
19 starting date).

- 20 (2) System Has Immediately Commencing Straight Life
21 Annuity Payable at Both Age Sixty-five (65) and
22 Age of Commencement. If the annuity starting date
23 for the member's benefit is after age sixty-five
24 (65) and occurs in a limitation year beginning on

1 or after July 1, 2007, and the System has an
2 immediately commencing straight life annuity
3 payable at both age sixty-five (65) and the age of
4 benefit commencement, the dollar limitation at the
5 member's annuity starting date is the lesser of
6 the limitation determined under division (1) of
7 subparagraph b of this paragraph and the dollar
8 limitation under subsection B of this section
9 (adjusted under subsection C of this section for
10 years of participation less than ten (10), if
11 required) multiplied by the ratio of the annual
12 amount of the adjusted immediately commencing
13 straight life annuity under the System at the
14 member's annuity starting date to the annual
15 amount of the adjusted immediately commencing
16 straight life annuity under the System at age
17 sixty-five (65), both determined without applying
18 the limitations of this section. For this
19 purpose, the adjusted immediately commencing
20 straight life annuity under the System at the
21 member's annuity starting date is the annual
22 amount of such annuity payable to the member,
23 computed disregarding the member's accruals after
24 age sixty-five (65) but including actuarial

1 adjustments even if those actuarial adjustments
2 are used to offset accruals; and the adjusted
3 immediately commencing straight life annuity under
4 the System at age sixty-five (65) is the annual
5 amount of such annuity that would be payable under
6 the System to a hypothetical member who is age
7 sixty-five (65) and has the same accrued benefit
8 as the member.

9 3. Notwithstanding the other requirements of this subsection, no
10 adjustment shall be made to the dollar limitation under subsection B
11 of this section to reflect the probability of a member's death
12 between the annuity starting date and age sixty-two (62), or between
13 age sixty-five (65) and the annuity starting date, as applicable, if
14 benefits are not forfeited upon the death of the member prior to the
15 annuity starting date. To the extent benefits are forfeited upon
16 death before the annuity starting date, such an adjustment shall be
17 made. For this purpose, no forfeiture shall be treated as occurring
18 upon the member's death if the System does not charge members for
19 providing a qualified preretirement survivor annuity, as defined in
20 Section 417(c) of the Internal Revenue Code of 1986, as amended, upon
21 the member's death.

22 4. Notwithstanding any other provision to the contrary, for
23 limitation years beginning on or after January 1, 1997, if payment
24 begins before the member reaches age sixty-two (62), the reductions

1 in the limitations in this subsection shall not apply to a member
2 who is a "qualified participant" as defined in Section 415(b)(2)(H)
3 of the Internal Revenue Code of 1986, as amended.

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

8 1. The retirement benefits payable for a limitation year under
9 any form of benefit with respect to such member under this System and
10 under all other defined benefit plans (without regard to whether a
11 plan has been terminated) ever maintained by a participating
12 municipality do not exceed Ten Thousand Dollars (\$10,000.00)
13 multiplied by a fraction:

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

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

19 2. The participating municipality (or a predecessor employer)
20 has not at any time maintained a defined contribution plan in which
21 the member participated (for this purpose, mandatory employee
22 contributions under a defined benefit plan, individual medical
23 accounts under Section 401(h) of the Internal Revenue Code of 1986,
24 as amended, and accounts for postretirement medical benefits

1 established under Section 419A(d) (1) of the Internal Revenue Code of
2 1986, as amended, are not considered a separate defined contribution
3 plan).

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

14 G. Effective for years beginning after December 31, 1997, if a
15 member purchases service pursuant to Section 50-111.2 and Section
16 50-111.4 of this title, which qualifies as "permissive service
17 credit" pursuant to Section 415(n) of the Internal Revenue Code of
18 1986, as amended, the limitations of Section 415 of the Internal
19 Revenue Code of 1986, as amended, may be met by either:

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

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

1 H. Effective for years beginning after December 31, 1997, if a
2 member repays to the System any amounts received because of such
3 member's prior termination pursuant to subsection C of Section 50-
4 111.1 of this title, such repayment shall not be taken into account
5 for purposes of Section 415 of the Internal Revenue Code of 1986, as
6 amended, pursuant to Section 415(k)(3) of the Internal Revenue Code
7 of 1986, as amended.

8 I. For limitation years beginning on or after January 1, 1995,
9 subsection C of this section, paragraph 1 of subsection D of this
10 section, and the proration provided under subparagraphs a and b of
11 paragraph 1 of subsection E of this section shall not apply to a
12 benefit paid under the System as the result of the member becoming
13 disabled by reason of personal injuries or sickness, or amounts
14 received by the beneficiaries, survivors or estate of the member as
15 the result of the death of the member.

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

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

22 SECTION 4. AMENDATORY Section 4, Chapter 152, O.S.L.
23 2007 (11 O.S. Supp. 2008, Section 50-114.3), is amended to read as
24 follows:

1 Section 50-114.3 A. An individual who has been designated,
2 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of
3 1986, as amended, as the beneficiary of a deceased member and who is
4 not the surviving spouse of the member, may elect, in accordance
5 with Section 402(c)(11) of the Internal Revenue Code of 1986, as
6 amended, and at the time and in the manner prescribed by the State
7 Board, to have a direct trustee-to-trustee transfer of any portion
8 of such beneficiary's lump-sum distribution from the System after
9 December 31, 2006, made to an individual retirement account or
10 individual retirement annuity (other than an endowment contract)
11 described in Section 408(a) or (b) of the Internal Revenue Code of
12 1986, as amended (IRA), that is established on behalf of such
13 designated individual. If such transfer is made, then:

14 1. The transfer is treated as an eligible rollover distribution
15 for purposes of Section 402(c)(11) of the Internal Revenue Code of
16 1986, as amended;

17 2. The transferee IRA is treated as an inherited individual
18 retirement account or an inherited individual retirement annuity
19 (within the meaning of Section 408(d)(3)(C) of the Internal Revenue
20 Code of 1986, as amended), and must be titled in the name of the
21 deceased member, for the benefit of the beneficiary; and

22 3. The required minimum distribution rules of Section
23 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue
24 Code of 1986, as amended, apply to the transferee IRA.

1 B. A trust maintained for the benefit of one or more designated
2 beneficiaries shall be treated in the same manner as a trust
3 designated beneficiary.

4 C. The State Board shall promulgate such rules as are necessary
5 to implement the provisions of this section.

6 SECTION 5. AMENDATORY 11 O.S. 2001, Section 50-115, as
7 last amended by Section 6, Chapter 152, O.S.L. 2007 (11 O.S. Supp.
8 2008, Section 50-115), is amended to read as follows:

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

22 B. In order for any member to be eligible for any disability
23 benefit, or the member's beneficiaries to be eligible for a pension,
24 the member must have complied with any agreement as to contributions

1 by the member and other members to any funds of the System where
2 said agreement has been made as provided by this article; and the
3 State Board must find:

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

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

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

13 D. As of the date of determination by the State Board that a
14 member is physically or mentally disabled and that the disability is
15 permanent and partial or permanent and total as was incurred while
16 in, and in consequence of, the performance or duty as an officer,
17 the member shall be awarded a disability benefit on the basis of the
18 percentage of impairment to the whole person, as defined by the most
19 current standards of the impairment as outlined in the "American
20 Medical Association's Guides to the Evaluation of Permanent
21 Impairment," as provided in the following table:

22 1% to 49% impairment to whole person = 50% of the normal
23 disability benefit
24

1 Association's Guides to the Evaluation of Permanent Impairment", on
2 the basis of the following table:

3 1% to 24% impaired = 25% of accrued retirement benefit

4 25% to 49% impaired = 50% of accrued retirement benefit

5 50% to 74% impaired = 75% of accrued retirement benefit

6 75% to 99% impaired = 90% of accrued retirement benefit.

7 H. Before making a finding as to the disability of a member,
8 the State Board shall require that, if the member is able, the
9 member shall make a certificate as to the disability which shall be
10 subscribed and sworn to by the member. It shall also require a
11 certificate as to such disability to be made by some physician
12 licensed to practice in this state as selected by the State Board.
13 The State Board may require other evidence of disability before
14 making the disability benefit. The salary of any such member shall
15 continue while the member is so necessarily confined to such
16 hospital bed or home and necessarily requires medical care or
17 professional nursing on account of such sickness or disability for a
18 period of not more than six (6) months, after which said period the
19 other provisions of this article may apply. The State Board, in
20 making disability benefits, shall act upon the written request of
21 the member or without such request, if it deem it for the good of
22 the police department. Any disability benefits shall cease when the
23 member receiving same shall be restored to active service at a

24

1 salary not less than three-fourths (3/4) of the member's average
2 monthly salary.

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

19 J. If the requirements of Section ~~5~~ 50-114.4 of this ~~act~~ title
20 are satisfied, a member who, by reason of disability, is separated
21 from service as a public safety officer with the member's
22 participating municipality, may elect to have payment made directly
23 to the provider for qualified health insurance premiums by deduction
24 from his or her monthly disability benefit, after December 31, 2006,

1 in accordance with Section 402(1) of the Internal Revenue Code of
2 1986, as amended.

3 SECTION 6. AMENDATORY 11 O.S. 2001, Section 50-128, as
4 last amended by Section 4, Chapter 137, O.S.L. 2005 (11 O.S. Supp.
5 2008, Section 50-128), is amended to read as follows:

6 Section 50-128. A. Any member who has heretofore left the
7 Police Department qualifying under this article to enter the
8 military service of the United States during World War II and who
9 returned to said department on or before July 1, 1947, or the Korean
10 conflict and who returned to said department on or before January 1,
11 1956, shall receive credit for such time in military service without
12 having made contribution to the System; and any member who has
13 heretofore left, or hereafter may leave said department because of
14 involuntary conscription into the military services of the United
15 States at any time and who returns to said department within ninety
16 (90) days after the member's release from such involuntary service
17 shall receive credit for such time in said military service on the
18 Police Department without having made contribution to the System
19 only for that period that is involuntary; voluntary enlistments and
20 voluntary extensions of military service being herewith specifically
21 excluded for retirement credit.

22 B. A member who began participation in the System prior to July
23 1, 2003, and who retires on or after July 1, 1998, shall be entitled
24 to prior service credit, not to exceed five (5) years, for those

1 periods of military service on active duty prior to membership in
2 the Oklahoma Police Pension and Retirement System. All members who
3 initially begin participation with the System after June 30, 2003,
4 may acquire prior military service credit for a maximum of five (5)
5 years of such service credit upon payment of the actuarial cost of
6 such service in the manner prescribed by and subject to all of the
7 requirements of Section 50-111.4 of this title. For members of the
8 System hired or rehired on or after July 1, 2003, if the military
9 service credit authorized by this subsection is used to compute the
10 retirement benefit of the member and the member retires from the
11 System, such military service credit shall not be used to compute
12 the retirement benefit in any other retirement system created
13 pursuant to the Oklahoma Statutes and the member may receive credit
14 for such service only in the retirement system from which the member
15 first retires.

16 For purposes of this subsection, "military service" means
17 service in the Armed Forces of the United States by honorably
18 discharged persons during the following time periods, as reflected
19 on such person's Defense Department Form 214, as follows:

20 1. During the following periods, including the beginning and
21 ending dates, and only for the periods served, from:

22 a. April 6, 1917, to November 11, 1918, commonly referred
23 to as World War I,
24

1 b. September 16, 1940, to December 7, 1941, as a member
2 of the 45th Division,

3 c. December 7, 1941, to December 31, 1946, commonly
4 referred to as World War II,

5 d. June 27, 1950, to January 31, 1955, commonly referred
6 to as the Korean Conflict or the Korean War,

7 e. February 28, 1961, to May 7, 1975, commonly referred
8 to as the Vietnam era, except that:

9 (1) for the period from February 28, 1961, to August
10 4, 1964, military service shall only include
11 service in the Republic of Vietnam during that
12 period, and

13 (2) for purposes of determining eligibility for
14 education and training benefits, such period
15 shall end on December 31, 1976, or

16 f. August 1, 1990, to December 31, 1991, commonly
17 referred to as the Gulf War, the Persian Gulf War, or
18 Operation Desert Storm, but excluding any person who
19 served on active duty for training only, unless
20 discharged from such active duty for a service-
21 connected disability;

22 2. During a period of war or combat military operation other
23 than a conflict, war or era listed in paragraph 1 of this
24 subsection, beginning on the date of Congressional authorization,

1 Congressional resolution, or Executive Order of the President of the
2 United States, for the use of the Armed Forces of the United States
3 in a war or combat military operation, if such war or combat
4 military operation lasted for a period of ninety (90) days or more,
5 for a person who served, and only for the period served, in the area
6 of responsibility of the war or combat military operation, but
7 excluding a person who served on active duty for training only,
8 unless discharged from such active duty for a service-connected
9 disability, and provided that the burden of proof of military
10 service during this period shall be with the member, who must
11 present appropriate documentation establishing such service.

12 C. An eligible member pursuant to subsection B of this section
13 shall include only those persons who shall have served during the
14 times or in the areas prescribed thereunder and only if such person
15 provides appropriate documentation in such time and manner as
16 required by the System to establish such military service prescribed
17 in this section, or for service pursuant to division (1) of
18 subparagraph e of paragraph 1 of subsection B of this section, those
19 persons who were awarded service medals, as authorized by the United
20 States Department of Defense as reflected in the veteran's Defense
21 Department Form 214, related to the Vietnam Conflict for service
22 prior to August 5, 1964. The provisions of subsection B of this
23 section shall include military retirees, whose retirement was based
24 only on active service, that have been rated as having twenty

1 percent (20%) or greater service-connected disability by the
2 Veterans Administration or the Armed Forces of the United States.

3 D. Effective December 12, 1994, a leave of absence on account
4 of a period of "qualified military service" in the uniformed
5 services of the United States (within the meaning of Section
6 414(u) (5) of the Internal Revenue Code of 1986), followed by a
7 return to the service of the participating municipality within
8 ninety (90) days after the completion of the period of service,
9 shall constitute credited service. Notwithstanding any provision
10 herein to the contrary, ~~contributions:~~

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

19 2. Effective January 1, 2007, if any member dies while
20 performing qualified military service, the survivors of the member
21 are entitled to any additional benefits other than benefit accruals
22 relating to the period of qualified military service provided under
23 the System had the member resumed and then terminated employment on
24 account of death.

1 SECTION 7. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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