STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1003 By: McDaniel (Randy)

COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; enacting the Save Oklahoma Act of 2011; providing for defined contribution plan for members based on participating service on or after designated date; requiring Board of Trustees of Oklahoma Public Employees Retirement System to establish defined contribution plan account; authorizing Board of Trustees to contract for certain third-party services; requiring private letter request to the Internal Revenue Service regarding tax-qualified status of defined contribution plan; providing for election regarding member contribution; providing for matching amount; providing for establishment of defined contribution plan accounts similar to options available pursuant to deferred compensation plan; providing for vesting of member contributions; providing for vesting of matching employer contribution amounts; providing for withdrawal of plan account balance based upon vesting schedule; providing for period of authorized participation in defined contribution plan; prescribing procedures upon termination of service; amending 74 O.S. 2001, Sections 902, as last amended by Section 1, Chapter 435, O.S.L. 2010, 911, 912.1, 914, as last amended by Section 3, Chapter 435, O.S.L. 2010, 915, as last amended by Section 138, Chapter 1, O.S.L. 2005, 916, 916.1, as last amended by Section 1, Chapter 83, O.S.L. 2010, 916.3, as amended by Section 4, Chapter 539, O.S.L. 2004, 917, as last amended by Section 25, Chapter 536, O.S.L. 2004, 918, as last amended by Section 33, Chapter 46, 2nd Extraordinary Session, O.S.L. 2006, 920, as last amended by Section 1, Chapter 470, O.S.L. 2010, 920A, as last amended by

Section 140, Chapter 1, O.S.L. 2005 and 925 (74 O.S. Supp. 2010, Sections 902, 914, 915, 916.1, 916.3, 917, 918, 920 and 920A), which relate to the Oklahoma Public Employees Retirement System; modifying definitions; conforming statutory references with respect to establishment of defined contribution plan for members whose initial service begins on or after designated date; providing for codification; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Save Oklahoma Act of 2011".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 915A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. For members whose first service with a participating employer of the Oklahoma Public Employees Retirement System occurs on or after January 1, 2012, the retirement benefit for such member shall be governed by the provisions of this section and the member shall not have retirement benefits computed pursuant to Section 915 of Title 74 of the Oklahoma Statutes.

B. The Board of Trustees of the Oklahoma Public Employees Retirement System shall establish a defined contribution plan for members whose first service with a participating employer occurs on

or after January 1, 2012. The Board of Trustees shall make a request pursuant to the private letter determination process prescribed by the provisions of the Internal Revenue Code of 1986, as amended, and any applicable rules of the Internal Revenue Service, that the defined contribution plan required by this section is a tax qualified retirement plan. Such request shall be made not later than sixty (60) days after the effective date of this act.

C. Members may make an election to contribute three and one-half percent (3.5%) of their compensation to a defined contribution plan account. The state or local government entity responsible for compensation of the member shall provide a matching payment to the defined contribution plan account established for the member equal to three and one-half percent (3.5%) of the compensation amount.

D. At the option of the member, the member may make an election to contribute ten percent (10%) of their compensation to a defined contribution plan account. The state or local government entity responsible for compensation of the member shall provide a matching payment to the defined contribution plan account equal to six percent (6%) of the compensation amount.

E. The Board of Trustees of the Oklahoma Public Employees Retirement System shall establish or shall contract with a third party provider to establish a range of defined contribution plan accounts similar to the accounts available to members of the Oklahoma Public Employees Retirement System who participate in the

deferred compensation arrangement authorized pursuant to Section 1707 of Title 74 of the Oklahoma Statutes.

F. Members shall be vested at one hundred percent (100%) with respect to their member contributions at all times during their participation in the defined contribution plan authorized by this section.

G. Members shall be vested with respect to matching employer contributions according to the following schedule:

1. Twenty percent (20%) after one (1) year of service;

2. Forty percent (40%) after two (2) years of service;

3. Sixty percent (60%) after three (3) years of service;

4. Eighty percent (80%) after four (4) years of service; and

5. One hundred percent (100%) after five (5) years of service.

H. Member contributions and employer matching contributions to the extent the member is vested as provided by subsection G of this section may be withdrawn upon termination from participation in the defined contribution plan.

I. There shall be no limit on the maximum period of participation in the defined contribution plan authorized by this section except as may be imposed pursuant to the provisions of the Internal Revenue Code of 1986, as amended, or any applicable rules of the Internal Revenue Service.

J. Upon termination of service, the member shall be able to receive a distribution from the defined contribution plan account

according to the terms for such distributions as established by the Board of Trustees or as established by the requirements applicable to any defined contribution plan account maintained for the benefit of the member by a third party provider.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 902, as last amended by Section 1, Chapter 435, O.S.L. 2010 (74 O.S. Supp. 2010, Section 902), is amended to read as follows:

Section 902. As used in Section 901 et seq. of this title:

(1) "System" means the Oklahoma Public Employees Retirement System as established by this act and as it may hereafter be amended;

(2) "Accumulated contributions" means the sum of all contributions by a member to the System which shall be credited to the member's account<u>, including contributions paid into a defined contribution plan account pursuant to Section 2 of this act</u>;

(3) "Act" means Sections 901 to 932, inclusive, of this title;

(4) "Actuarial equivalent" means a deferred income benefit of equal value to the accumulated deposits or benefits when computed upon the basis of the actuarial tables in use by the System;

(5) "Actuarial tables" means the actuarial tables approved and in use by the Board at any given time;

(6) "Actuary" means the actuary or firm of actuaries employed by the Board at any given time;

(7) "Beneficiary" means any person named by a member to receive any benefits as provided for by Section 901 et seq. of this title. If there is no beneficiary living at time of member employee's death, the member's estate shall be the beneficiary;

(8) "Board" means the Oklahoma Public Employees Retirement System Board of Trustees;

(9) "Compensation" means all salary and wages, as defined by the Board of Trustees, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, but exclusive of payment for overtime, payable to a member of the System for personal services performed for a participating employer but shall not include compensation or reimbursement for traveling, or moving expenses, or any compensation in excess of the maximum compensation level, provided:

(a) For compensation for service prior to January 1, 1988, the maximum compensation level shall be Twenty-five Thousand Dollars ($25,000.00) per annum.

For compensation for service on or after January 1, 1988, through June 30, 1994, the maximum compensation level shall be Forty Thousand Dollars ($40,000.00) per annum.

For compensation for service on or after July 1, 1994, through June 30, 1995, the maximum compensation level shall be Fifty Thousand Dollars ($50,000.00) per

annum; for compensation for service on or after July 1, 1995, through June 30, 1996, the maximum compensation level shall be Sixty Thousand Dollars ($60,000.00) per annum; for compensation for service on or after July 1, 1996, through June 30, 1997, the maximum compensation level shall be Seventy Thousand Dollars ($70,000.00) per annum; and for compensation for service on or after July 1, 1997, through June 30, 1998, the maximum compensation level shall be Eighty Thousand Dollars ($80,000.00) per annum. For compensation for services on or after July 1, 1998, there shall be no maximum compensation level for retirement purposes.

(b) Compensation for retirement purposes shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986.

(c) Notwithstanding any provision to the contrary, the compensation taken into account for any employee in determining the contribution or benefit accruals for any plan year is limited to the annual compensation limit under Section 401(a)(17) of the federal Internal Revenue Code.

(d) Current appointed members of the Oklahoma Tax Commission whose salary is constitutionally limited and is less than the highest salary allowed by law for his or her position shall be allowed, within ninety (90) days from the effective date of this act, to make an election to use the highest salary allowed by law for the position to which the member was appointed for the purposes of making contributions and determination of retirement benefits. Such election shall be irrevocable and be in writing. Reappointment to the same office shall not permit a new election. Members appointed to the Oklahoma Tax Commission after the effective date of this act shall make such election, pursuant to this subparagraph, within ninety (90) days of taking office;

(10) "Credited service" means the sum of participating service, prior service and elected service;

(11) "Dependent" means a parent, child, or spouse of a member who is dependent upon the member for at least one-half (1/2) of the member's support;

(12) "Effective date" means the date upon which the System becomes effective by operation of law;

(13) "Eligible employer" means the state and any county, county hospital, city or town, conservation districts, circuit engineering

districts and any public or private trust in which a county, city or town participates and is the primary beneficiary is to be an eligible employer for the purpose of this act only, whose employees are covered by Social Security and are not covered by or eligible for another retirement plan authorized under the laws of this state which is in operation on the initial entry date. Emergency medical service districts may join the System upon proper application to the Board. Provided affiliation by a county hospital shall be in the form of a resolution adopted by the board of control.

(a) If a class or several classes of employees of any above-defined employers are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, such employer shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this section.

(b) A class or several classes of employees who are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, and when the qualifications for employment in such

class or classes are set by state law; and when such class or classes of employees are employed by a county or municipal government pursuant to such qualifications; and when the services provided by such employees are of such nature that they qualify for matching by or contributions from state or federal funds administered by an agency of state government which qualifies as a participating employer, then the agency of state government administering the state or federal funds shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this subsection; provided, that the required contributions to the retirement plan may be withheld from the contributions of state or federal funds administered by the state agency and transmitted to the System on the same basis as the employee and employer contributions are transmitted for the direct employees of the state agency. The retirement or eligibility for retirement under the provisions of law providing pensions for service as a volunteer fire fighter shall not render any person ineligible for participation in the benefits provided for in Section 901 et seq. of this title. An employee of any public or private trust in which a county, city

or town participates and is the primary beneficiary shall be deemed to be an eligible employee for the purpose of this act only.

(c) All employees of the George Nigh Rehabilitation Institute who elected to retain membership in the System, pursuant to Section 913.7 of this title, shall continue to be eligible employees for the purposes of this act. The George Nigh Rehabilitation Institute shall be considered a participating employer only for such employees.

(d) A participating employer of the Teachers' Retirement System of Oklahoma, who has one or more employees who have made an election pursuant to enabling legislation to retain membership in the System as a result of change in administration, shall be considered a participating employer of the Oklahoma Public Employees Retirement System only for such employees;

(14) "Employee" means any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary or wage is equal to the hourly rate of the monthly minimum wage for state employees. For those eligible employers outlined in Section 910 of this title, the rate shall be equal to the hourly rate of the monthly minimum

wage for that employer. Each employer, whose minimum wage is less than the state's minimum wage, shall inform the System of the minimum wage for that employer. This notification shall be by resolution of the governing body.

(a) Any employee of the county extension agents who is not currently participating in the Teachers' Retirement System of Oklahoma shall be a member of this System.

(b) Eligibility shall not include any employee who is a contributing member of the United States Civil Service Retirement System.

(c) It shall be mandatory for an officer, appointee or employee of the office of district attorney to become a member of this System if he or she is not currently participating in a county retirement system. Provided further, that if an officer, appointee or employee of the office of district attorney is currently participating in such county retirement system, he or she is ineligible for this System as long as he or she is eligible for such county retirement system. Any eligible officer, appointee or employee of the office of district attorney shall be given credit for prior service as defined in this section. The provisions outlined in Section 917 of this title shall apply to

those employees who have previously withdrawn their contributions.

(d) Eligibility shall also not include any officer or employee of the Oklahoma Employment Security Commission, except for those officers and employees of the Commission electing to transfer to this System pursuant to the provisions of Section 910.1 of this title or any other class of officers or employees specifically exempted by the laws of this state, unless there be a consolidation as provided by Section 912 of this title. Employees of the Oklahoma Employment Security Commission who are ineligible for enrollment in the Employment Security Commission Retirement Plan, that was in effect on January 1, 1964, shall become members of this System.

(e) Any employee employed by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session shall be eligible for membership in the System regardless of classification as a temporary employee and may participate in the System during the regular legislative session at the option of the employee. For purposes of this subparagraph, the determination of whether an employee is employed for the full

duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives. Each regular legislative session during which the legislative employee or an employee of the Legislative Service Bureau participates full time shall be counted as six (6) months of full-time participating service.

(i) Except as otherwise provided by this subparagraph, once a temporary session employee makes a choice to participate or not, the choice shall be binding for all future legislative sessions during which the employee is employed.

(ii) Notwithstanding the provisions of division (i) of this subparagraph, any employee, who is eligible for membership in the System because of the provisions of this subparagraph and who was employed by the State Senate or House of Representatives after January 1, 1989, may file an election, in a manner specified by the Board,

to participate as a member of the System prior to September 1, 1989.

(iii) Notwithstanding the provisions of division (i) of this subparagraph, a temporary legislative session employee who elected to become a member of the System may withdraw from the System effective the day said employee elected to participate in the System upon written request to the Board. Any such request must be received by the Board prior to October 1, 1990. All employee contributions made by the temporary legislative session employee shall be returned to the employee without interest within four (4) months of receipt of the written request.

(iv) A member of the System who did not initially elect to participate as a member of the System pursuant to this subparagraph ~~(c) of this paragraph~~ shall be able to acquire service performed as a temporary legislative session employee for periods of service performed prior to the date upon which the person became a member of the System if:

a. the member files an election with the System not later than December 31, 2000, to purchase the prior service; and

b. the member makes payment to the System of the actuarial cost of the service credit pursuant to subsection A of Section 913.5 of this title. The provisions of Section 913.5 of this title shall be applicable to the purchase of the service credit, including the provisions for determining service credit in the event of incomplete payment due to cessation of payments, death, termination of employment or retirement, but the payment may extend for a period not to exceed ninety-six (96) months;

(15) "Entry date" means the date on which an eligible employer joins the System. The first entry date pursuant to Section 901 et seq. of this title shall be January 1, 1964;

(16) "Executive Director" means the managing officer of the System employed by the Board under Section 901 et seq. of this title;

(17) "Federal Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1, 1999;

(18) "Final average compensation" means the average annual compensation, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, up to, but not exceeding the maximum compensation levels as provided in paragraph (9) of this section received during the highest three (3) of the last ten (10) years of participating service immediately preceding retirement or termination of employment. Provided, no member shall retire with a final average compensation unless the member has made the required contributions on such compensation, as defined by the Board of Trustees;

(19) "Fiscal year" means the period commencing July 1 of any year and ending June 30 of the next year. The fiscal year is the plan year for purposes of the federal Internal Revenue Code; however, the calendar year is the limitation year for purposes of Section 415 of the federal Internal Revenue Code;

(20) "Fund" means the Oklahoma Public Employees Retirement Fund as created by Section 901 et seq. of this title;

(21) "Leave of absence" means a period of absence from employment without pay, authorized and approved by the employer and acknowledged to the Board, and which after the effective date does not exceed two (2) years;

(22) "Member" means an eligible employee or elected official who is in the System and is making the required employee or elected official contributions, or any former employee or elected official

who shall have made the required contributions to the System and shall have not received a refund or withdrawal;

(23) "Military service" means service in the Armed Forces of the United States by an honorably discharged person during the following time periods, as reflected on such person's Defense Department Form 214, not to exceed five (5) years for combined participating and/or prior service, as follows:

(a) during the following periods, including the beginning and ending dates, and only for the periods served, from:

(i) April 6, 1917, to November 11, 1918, commonly referred to as World War I,

(ii) September 16, 1940, to December 7, 1941, as a member of the 45th Division,

(iii) December 7, 1941, to December 31, 1946, commonly referred to as World War II,

(iv) June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War,

(v) February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that:

a. for the period from February 28, 1961, to August 4, 1964, military service shall only

include service in the Republic of Vietnam during that period, and

b. for purposes of determining eligibility for education and training benefits, such period shall end on December 31, 1976, or

(vi) August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability;

(b) during a period of war or combat military operation other than a conflict, war or era listed in subparagraph (a) of this paragraph, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active duty for training only, unless discharged from such

active duty for a service-connected disability, and provided that the burden of proof of military service during this period shall be with the member, who must present appropriate documentation establishing such service.

An eligible member under this paragraph shall include only those persons who shall have served during the times or in the areas prescribed in this paragraph, and only if such person provides appropriate documentation in such time and manner as required by the System to establish such military service prescribed in this paragraph, or for service pursuant to subdivision a of division (v) of subparagraph (a) of this paragraph those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict for service prior to August 5, 1964;

(24) "Normal retirement date" means the date on which a member may retire with full retirement benefits as provided in Section 901 et seq. of this title, <u>but shall not be applicable to members whose first service with a participating employer occurs on or after January 1, 2012, and who participates in the defined contribution plan authorized by Section 2 of this act,</u> such date being whichever occurs first <u>with respect to other members of the retirement system</u>:

(a) the first day of the month coinciding with or following a member's sixty-second birthday,

(b) for any person who initially became a member prior to July 1, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total eighty (80); such a normal retirement date will also apply to any person who became a member of the sending system as defined in Section 901 et seq. of this title, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992,

(c) for any person who became a member after June 30, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total ninety (90),

(d) in addition to subparagraphs (a), (b) and (c) of this paragraph, the first day of the month coinciding with or following a member's completion of at least twenty (20) years of full-time-equivalent employment as:

(i) a correctional or probation and parole officer with the Department of Corrections and at the time of retirement, the member was a correctional or probation and parole officer with the Department of Corrections, or

(ii) a correctional officer, probation and parole officer or fugitive apprehension agent with the Department of Corrections who is in such position on June 30, 2004, or who is hired after June 30, 2004, and who receives a promotion or change in job classification after June 30, 2004, to another position in the Department of Corrections, so long as such officer or agent has at least five (5) years of service as a correctional officer, probation and parole officer or fugitive apprehension agent with the Department, has twenty (20) years of full-time-equivalent employment with the Department and was employed by the Department at the time of retirement, or

(iii) a firefighter with the Oklahoma Military Department either employed for the first time on or after July 1, 2002, or who was employed prior to July 1, 2002, in such position and who makes the election authorized by division (2) of subparagraph b of paragraph (8) of subsection A of Section 915 of this title and at the time of retirement, the member was a firefighter with the Oklahoma Military Department, and such member has

at least twenty (20) years of credited service upon which the two and one-half percent (2 1/2%) multiplier will be used in calculating the retirement benefit,

(e) for those fugitive apprehension agents who retire on or after July 1, 2002, the first day of the month coinciding with or following a member's completion of at least twenty (20) years of full-time-equivalent employment as a fugitive apprehension agent with the Department of Corrections and at the time of retirement, the member was a fugitive apprehension agent with the Department of Corrections, or

(f) for any member who was continuously employed by an entity or institution within The Oklahoma State System of Higher Education and whose initial employment with such entity or institution was prior to July 1, 1992, and who without a break in service of more than thirty (30) days became employed by an employer participating in the Oklahoma Public Employees Retirement System, the first day of the month coinciding with or following the date at which the sum of the member's age and number of years of credited service total eighty (80);

(25) “Participating employer” means an eligible employer who has agreed to make contributions to the System on behalf of its employees;

(26) “Participating service” means the period of employment after the entry date for which credit is granted a member;

(27) “Prior service” means the period of employment of a member by an eligible employer prior to the member’s entry date for which credit is granted a member under Section 901 et seq. of this title;

(28) “Retirant” or "retiree” means a member who has retired under the System;

(29) “Retirement benefit” means a monthly income with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to Section 901 et seq. of this title or as otherwise allowed to be paid at the discretion of the Board <u>or the distribution from a defined contribution plan account as provided by Section 2 of this act</u>;

(30) “Retirement coordinator” means the individual designated by each participating employer through whom System transactions and communication shall be directed;

(31) “Social Security” means the old-age survivors and disability section of the Federal Social Security Act;

(32) "Total disability" means a physical or mental disability accepted for disability benefits by the Federal Social Security System;

(33) "Service-connected disability benefits" means military service benefits which are for a service-connected disability rated at twenty percent (20%) or more by the Veterans Administration or the Armed Forces of the United States;

(34) "Elected official" means a person elected to a state office in the legislative or executive branch of state government or a person elected to a county office for a definite number of years and shall include an individual who is appointed to fill the unexpired term of an elected state official;

(35) "Elected service" means the period of service as an elected official; and

(36) "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

SECTION 4. AMENDATORY 74 O.S. 2001, Section 911, is amended to read as follows:

Section 911. (1) Any employee of a participating employer on the entry date of such employer shall be a member of the System on the entry date.

(2) Any employee other than a state elected official who is employed by a participating employer after the entry date of such

employer shall be a member of the System on the first day of the month immediately following employment.

(3) Any employee who is in military service or on leave of absence on the entry date of his employer shall become a member of the System upon his return to active employment.

(4) The provisions of this section shall not be applicable to a member whose first service with a participating employer occurs on or after January 1, 2012, with respect to the retirement plan created pursuant to Section 903 of this title.

SECTION 5. AMENDATORY 74 O.S. 2001, Section 912.1, is amended to read as follows:

Section 912.1 (1) In the event the Plan of the Public Employees Retirement System is terminated or partially terminated the right of all participants or in the event of partial termination the rights of the affected participants, or in the event of complete discontinuance of contributions, whether retired or otherwise, shall become fully vested.

(2) In the event of termination of the Plan, the Board of Trustees shall distribute the net assets of the fund, allowing a period of not less than six (6) nor more than nine (9) months for dissolution of disability claims, as follows:

(a) First, accumulated contributions shall be allocated to each respective participant, former participant, retired member, joint annuitant or beneficiary then

receiving payments. If these assets are insufficient for this purpose, they shall be allocated to each such person in the proportion which his accumulated contributions bear to the total of all such participants' accumulated contributions. For purposes of this section, contribution means payment into the System by an employer or employee for the benefit of an individual employee.

(b) The balance of such assets, if any, remaining after making the allocations provided in subparagraph (a) of this section shall be disposed of by allocating to each person then having an interest in the fund the excess of his retirement income under the Plan less the retirement income which is equal to the actuarial equivalent of the amount allocated to him under subparagraph (a) of this section. Such allocation shall be made with the full amount of the remaining assets to be allocated to the persons in each group in the following order of precedence:

(i) those retired members, joint annuitants or beneficiaries receiving benefits,

(ii) those members eligible to retire,

(iii) those members eligible for early retirement,

(iv) former participants electing to receive a vested benefit, and

(v) all other members.

In the event the balance of the fund remaining after all allocations have been made with respect to all retirement income in a preceding group is insufficient to allocate the full actuarial equivalent of such retirement income to all persons in the group for which it is then being applied, such balance of the fund shall be allocated to each person in such group in the proportion which the actuarial equivalent of the retirement income allocable to him pursuant to such group bears to the total actuarial equivalent of the retirement income so allocable to all persons in such group.

Provided no discrimination in value results, the Board of Trustees shall distribute the amounts so allocated in one of the following manners as the Board of Trustees in their discretion may determine:

(i) by continuing payment of benefits as they become due, or

(ii) by paying, in cash, the amount allocated to any such person.

<u>(3) The provisions of this section shall not be applicable with respect to a member whose first service with a participating employer occurs on or after January 1, 2012.</u>

SECTION 6. AMENDATORY 74 O.S. 2001, Section 914, as last amended by Section 3, Chapter 435, O.S.L. 2010 (74 O.S. Supp. 2010, Section 914), is amended to read as follows:

Section 914. A. The normal retirement date for a member of the Oklahoma Public Employees Retirement System shall be as defined in Section 902 of this title, provided members employed on or after January 1, 1983, shall have six (6) or more years of full-time-equivalent employment with a participating employer before receiving any retirement benefits or if the member is a legislative session employee of the Legislature, shall have three (3) or more years of full-time-equivalent employment with a participating employer before receiving any retirement benefits. In no event shall a normal retirement date for a member be before six (6) months after the entry date of the participating employer by whom he or she is employed.

B. A member may be employed beyond the normal retirement date by the appointing authority of the participating employer. However, the member may not receive retirement pay so long as the member continues employment under this act. Any member who has terminated employment with a participating employer prior to the month immediately preceding said member's normal retirement date must elect a vested benefit pursuant to Section 917 of this title before receiving any retirement benefits.

C. Notice for retirement shall be filed through the retirement coordinator for the participating employer in such form and manner as the Board shall prescribe; provided, that such notice for retirement shall be filed with the office of the retirement system at least sixty (60) days prior to the date selected for the member's retirement; provided further, that the Executive Director may waive the sixty-day notice for good cause shown as defined by the Board.

D. No retirement benefits shall be payable to any member until the first day of the month following the termination of the member's employment with any participating employer. The type of retirement benefit selected by a member may not be changed on or after the effective date of the member's retirement. Receipt of workers' compensation benefits shall in no respect disqualify the retiree for benefits.

E. If a retiree should be elected or appointed to any position or office for which compensation for service is paid from levies or taxes imposed by the state or any political subdivision thereof, the retiree shall not receive any retirement benefit for any month for which the retiree serves in such position or office after the retiree has received compensation in a sum equal to the amount allowable as wages or earnings by the Social Security Administration in any calendar year. This subsection shall not apply to service rendered by a retiree as a juror, as a witness in any legal proceeding or action, as an election board judge or clerk, or in any

other office or position of a similar nature, or to an employer that is not a participating employer. Provided, further, that any participating employer who is employing such a retiree shall make proper written notification to the System informing it of the beginning date of such retiree's employment and the date such retiree reaches the maximum compensation allowed by this section in the calendar year. Any retiree returning to work for a participating employer shall make contributions to the System and the employer shall do likewise. All retirees who have returned to employment and participation in the System following retirement shall have post-retirement benefits calculated on one of the following methods:

1. All service accumulated from date of reemployment shall be computed based on the benefit formula applicable at that time and the additional benefits shall be added to the previous benefits. Such additional benefits shall be calculated each year based upon additional service accrued from July 1 to June 30 of the previous year and the additional benefit, if any, will be added to the retiree's monthly benefit beginning January 1, 2000, and each January 1 thereafter. However, the post-retirement service credit shall be cumulative, beginning with service credit accrued after the date of retirement, provided that the retiree has not received a distribution of the post-retirement contributions.

2. Any retiree who returns to employment with a participating employer may elect not to receive any retirement benefits while so reemployed. If such an election is made and reemployment is for a minimum period of thirty-six (36) consecutive months, all service accumulated from date of reemployment shall be participating service. For purposes of determining the retirement benefits of such a member upon the termination of such reemployment all creditable service of the member shall be computed based on the benefit formula applicable at the time of termination of such reemployment. Provided, a retiree who became reemployed prior to July 1, 1982, and who is reemployed for a minimum of thirty-six (36) consecutive months shall have all the creditable service of such retiree computed based on the benefit formula applicable at the time of termination of such reemployment if the retiree elects not to receive retirement benefits prior to such termination of reemployment. A retiree who has waived receipt of the monthly benefit, but is not reemployed for the full thirty-six (36) consecutive months, shall upon termination of such reemployment have only the additional amount added to his or her benefit as if they had not waived the benefit as provided in paragraph 1 of this subsection.

3. All post-retirement additional benefits shall be calculated using actual hours worked as well as the actual compensation received and upon which contributions are paid. Post-retirement

service is not subject to the partial year round-up provisions of subsection C of Section 913 of this title.

4. A retired member who returns to work for a participating employer pursuant to this section shall be bound by the election made pursuant to paragraph (2) of subsection A of Section 915 of this title if the member had made such election prior to retirement. If the member had not made such election prior to retirement, the member may do so during the member's reemployment with a participating employer pursuant to this section. A retired member may not be rehired by their former employer, nor may the retired member be permitted to enter into an employment contract of any kind with a former employer, for a period of one (1) year after the retired member ended his or her employment with the former employer unless the retired member waives his or her benefit under paragraph 2 of this subsection and returns as a bona fide employee.

F. Any member may elect to retire before his or her normal retirement date on the first day of any month coinciding with or following the attainment of age fifty-five (55), provided such member has completed ten (10) years of participating service, but in no event before six (6) months after the entry date. Any member who shall retire before the normal retirement date shall receive an annual retirement benefit adjusted in accordance with the following percentage schedule:

Percentage of Normal

Age	Retirement Benefit
62	100.00%
61	93.33%
60	86.67%
59	80.00%
58	73.33%
57	66.67%
56	63.33%
55	60.00%

G. The provisions of this section shall not be applicable with respect to a member whose first service with a participating employer occurs on or after January 1, 2012.

SECTION 7. AMENDATORY 74 O.S. 2001, Section 915, as last amended by Section 138, Chapter 1, O.S.L. 2005 (74 O.S. Supp. 2010, Section 915), is amended to read as follows:

Section 915. A. (1) Except as otherwise provided in this subsection and as provided for elected officials in Section 913.4 of this title, any member who shall retire on or after the member's normal retirement date shall be entitled to receive an annual retirement benefit equal to two percent (2%) of the member's final average compensation as determined pursuant to paragraph (18) of Section 902 of this title, multiplied by the number of years of credited service that has been credited to the member in accordance

with the provisions of Section 913 of this title other than years credited pursuant to paragraph (2) of this subsection.

(2) Effective January 1, 2004, except as otherwise provided for elected officials in Section 913.4 of this title and except for those members making contributions pursuant to paragraphs (c), (d) and (e) of subsection (1) of Section 919.1 of this title, any member who shall retire shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the member's final average compensation as determined pursuant to paragraph (18) of Section 902 of this title, multiplied by the number of full years of participating service after January 1, 2004, that have been credited to the member in accordance with the provisions of Section 913 of this title and only for those full years of participating service for which contributions have been made pursuant to paragraph (f) of subsection (1) of Section 919.1 of this title. The two and one-half percent (2 1/2%) multiplier shall not apply to purchased service, purchased or granted military service or transferred service. In order to receive the two and one-half percent (2 1/2%) multiplier in computing retirement benefits, an active member shall make an irrevocable written election to pay the contributions pursuant to paragraph (f) of subsection (1) of Section 919.1 of this title. The two and one-half percent (2 1/2%) multiplier pursuant to this paragraph shall not apply to additional years of service credit attributed to sick leave pursuant to paragraph 7 of subsection B of

Section 913 of this title and fractional years pursuant to subsection C of Section 913 of this title and shall be attributable only to the participating service credited after the election of the member.

(3) The minimum final average compensation for any person who becomes a member of the System on or after July 1, 1995:

a. and who had twenty (20) or more years of credited service within the System as of the member's retirement date shall be no less than Thirteen Thousand Eight Hundred Dollars ($13,800.00) per annum,

b. and who had at least fifteen (15) but not more than nineteen (19) years of credited service within the System as of the member's retirement date shall be no less than Six Thousand Nine Hundred Dollars ($6,900.00) per annum,

c. and who had less than fifteen (15) years of credited service within the System as of the member's retirement date shall not be eligible for any minimum amount of final average compensation and the member's final average compensation shall be the final average compensation as defined by paragraph (18) of Section 902 of this title,

(4) Provided, further, any member who has elected a vested benefit pursuant to Section 917 of this title shall be entitled to

receive benefits as outlined in this section except the percent factor and the member's maximum compensation level in effect the date the member's employment was terminated with a participating employer shall be applicable.

(5) Any member who is a correctional officer or a probation and parole officer employed by the Department of Corrections at the time of retirement and who retires on or before June 30, 2000, shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars ($25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars ($25,000.00) but not exceeding the maximum compensation level as provided in paragraph (9) of Section 902 of this title, multiplied by the number of years of service as a correctional officer or a probation and parole officer, provided, any years accrued prior to July 1, 1990, as a correctional officer or a probation and parole officer by a member who is employed as a correctional officer or a probation and parole officer on July 1, 1990, shall be calculated for retirement purposes at two and one-quarter percent (2 1/4%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars ($25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars ($25,000.00) but not exceeding the maximum compensation level as provided in paragraph (9) of Section 902 of

this title, multiplied by the number of years of such service and any years in excess of twenty (20) years as such an officer or years credited to the member in accordance with the provisions of Section 913 of this title shall be calculated for retirement purposes at two percent (2%) of the final average compensation of the member multiplied by the number of years of such service. Any person who contributes to the System as a correctional officer or a probation and parole officer as provided in paragraph (c) of subsection (1) of Section 919.1 of this title, on or before June 30, 2000, but who does not make such contributions after June 30, 2000, and who does not qualify for normal retirement under subparagraph (c) of paragraph (24) of Section 902 of this title shall have retirement benefits for each year of full-time-equivalent participating service as a correctional or a probation and parole officer after July 1, 1990, computed on two and one-half percent (2 1/2%) of the final average compensation based upon those years as a correctional officer or a probation and parole officer. Provided, further, any fugitive apprehension agent shall be entitled to receive benefits as outlined in this act for service as a fugitive apprehension agent prior to July 1, 2002, only upon payment to the System of the employee contributions which would have been paid if such fugitive apprehension agent had been covered by this section prior to the effective date of this act, plus interest of not to exceed ten percent (10%) as determined by the Board. The Department of

Corrections may make the employee contribution and interest payment on behalf of such member.

(6) Any member who is a correctional officer, a probation and parole officer or a fugitive apprehension agent employed by the Department of Corrections at the time of retirement and who retires on or after July 1, 2002, shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member, but not exceeding the maximum compensation level as provided in paragraph (18) of Section 902 of this title, multiplied by the number of years of service as a correctional officer, a probation and parole officer or a fugitive apprehension agent, and any years in excess of twenty (20) years as such an officer or agent, or years credited to the member in accordance with the provisions of Section 913 of this title, shall be calculated for retirement purposes at two percent (2%) of the final average compensation of the member multiplied by the number of years of such service. For purposes of this paragraph, "final average compensation" shall be determined by computing the average annual salary, in the manner prescribed by paragraph (18) of Section 902 of this title, for the highest three (3) years of the last ten (10) years of participating service immediately preceding retirement or termination of employment for all years of service performed by such member, both for years of service performed as a correctional officer, probation and parole officer or fugitive apprehension

agent, not in excess of twenty (20) years, and for years of service performed in excess of twenty (20) years, whether as a correctional officer, probation and parole officer, fugitive apprehension agent or other position unless the computation of benefits would result in a lower retirement benefit amount than if final average compensation were to be computed as otherwise provided by this paragraph.

(7) Any member who is a correctional officer, a probation and parole officer or a fugitive apprehension agent who has at least five (5) years of service as a correctional officer, a probation and parole officer or a fugitive apprehension agent who is in such position on June 30, 2004, or who is hired after June 30, 2004, in such position, and who receives a promotion or change in job classification after June 30, 2004, to another position in the Department of Corrections, and who is employed by the Department of Corrections at the time of retirement and who retires on or after July 1, 2004, shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member, but not exceeding the maximum compensation level as provided in paragraph (18) of Section 902 of this title, multiplied by the number of years of service with the Department of Corrections and any years in excess of twenty (20) years with the Department or years credited to the member in accordance with the provisions of Section 913 of this title, shall be calculated for retirement purposes at two percent (2%) of the

final average compensation of the member multiplied by the number of years of such service. For purposes of this paragraph, "final average compensation" shall be determined by computing the average annual salary, in the manner prescribed by paragraph (18) of Section 902 of this title, for the highest three (3) years of the last ten (10) years of participating service immediately preceding retirement or termination of employment for all years of service performed by such member with the Department.

(8) Any person who contributed to the System as a correctional officer, a probation and parole officer or a fugitive apprehension agent as provided in ~~paragraphs~~ paragraph (c) or (d) of subsection (1) of Section 919.1 of this title, and who retires under normal retirement or early retirement on or after January 1, 2004, under paragraph (24) of Section 902 of this title shall have retirement benefits for each year of full-time-equivalent participating service as a correctional officer, a probation and parole officer or a fugitive apprehension agent, computed on two and one-half percent (2 1/2%) of the final average compensation based upon those years as a correctional officer, a probation and parole officer or a fugitive apprehension agent. For purposes of this paragraph, "final average compensation" shall be determined by computing the average annual salary, in the manner prescribed by paragraph (18) of Section 902 of this title, for the highest three (3) years of the last ten (10) years of participating service immediately preceding retirement or

termination of employment for all years of service performed by such member, both for years of service performed as a correctional officer, probation and parole officer or fugitive apprehension agent, not in excess of twenty (20) years, and for years of service performed in excess of twenty (20) years, whether as a correctional officer, probation and parole officer, fugitive apprehension agent or other position unless the computation of benefits would result in a lower retirement benefit amount than if final average compensation were to be computed as otherwise provided by this paragraph.

(9) Any member who is:

a. initially on or after July 1, 2002, employed as a firefighter for the Oklahoma Military Department and who retires on or after the member's normal retirement date shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member multiplied by the number of years of service in such service,

b. (1) a firefighter who performs firefighting services for the Oklahoma Military Department prior to July 1, 2002, and who makes an election in writing on a form prescribed for this purpose by the System not later than December 31, 2002, shall be entitled to receive a retirement benefit

based upon two and one-half percent (2 1/2%) of the final average compensation of the member multiplied by the number of years of service as a firefighter with the Oklahoma Military Department on or after July 1, 2002. The election authorized by this subdivision shall be irrevocable once the election is filed with the System,

(2) a firefighter who performs firefighting services for the Oklahoma Military Department prior to July 1, 2002, and who makes the election in division (1) of this subparagraph may also make an election in writing on a form prescribed for this purpose by the System not later than December 31, 2002, to receive a retirement benefit based upon two and one-half percent (2 1/2%) of the final average compensation of the member multiplied by the number of years of service as a firefighter with the Oklahoma Military Department prior to July 1, 2002. The election authorized by this subdivision shall be irrevocable once the election is filed with the System. Retirement benefits shall be calculated based upon the two and one-half percent (2 1/2%)

multiplier upon payment being made pursuant to Section 913.5 of this title.

(10) Upon death of a retirant, there shall be paid to his beneficiary an amount equal to the excess, if any, of his accumulated contributions over the sum of all retirement benefit payments made.

(11) Such annual retirement benefits shall be paid in equal monthly installments, except that the Board may provide for the payment of retirement benefits which total less than Two Hundred Forty Dollars ($240.00) a year on other than a monthly basis.

(12) Pursuant to the rules established by the Board, a retiree receiving monthly benefits from the System may authorize warrant deductions for any products currently offered to active state employees through the Employees Benefits Council, provided that product is offered to state retirees as a group and has a minimum participation of five hundred state retirees. The System has no responsibility for the marketing, enrolling or administration of such products, but shall retain a processing fee of two percent (2%) of the gross deductions for the products. Retirement benefit deductions shall be made for membership dues for any statewide association for which payroll deductions are authorized pursuant to subsection B of Section ~~7.10~~ 34.70 of Title 62 of the Oklahoma Statutes for retired members of any state-supported retirement system, upon proper authorization given by the member to the board

from which the member or beneficiary is currently receiving retirement benefits.

B. A member shall be considered disabled if such member qualifies for the payment of Social Security disability benefits, or the payment of benefits pursuant to the Railroad Retirement Act of 1974, Section 231 et seq. of Title 45 of the United States Code, and shall be eligible for benefits hereunder upon proof of such disability, provided such member is an active regularly scheduled employee with a participating employer at the time of injury or inception of illness or disease resulting in subsequent certification of eligibility for Social Security disability benefits by reason of such injury, illness or disease, providing such disability is certified by the Social Security Administration within one (1) year after the last date physically on the job and after completion of at least eight (8) years of participating service or combined prior and participating service or resulting in subsequent certification of eligibility of disability by the Railroad Retirement Board providing such certification is made by the Railroad Retirement Board within one (1) year after the last date physically on the job and after completion of at least eight (8) years of participating service or combined prior and participating service. The member shall submit to the Retirement System the Social Security Award Notice or the Railroad Retirement Award Notice certifying the date of entitlement for disability benefits, as

issued by the Social Security Administration, Department of Health and Human Services or the Railroad Retirement Board. Disability benefits shall become effective on the date of entitlement as established by the Social Security Administration or the Railroad Retirement Board, but not before the first day of the month following removal from the payroll, whichever is later, and final approval by the Retirement System. Benefits shall be based upon length of service and compensation as of the date of disability, without actuarial reduction because of commencement prior to the normal retirement date. The only optional form of benefit payment available for disability benefits is Option A as provided for in Section 918 of this title. Option A must be elected in accordance with the provisions of Section 918 of this title. Benefit payments shall cease upon the member's recovery from disability prior to the normal retirement date. Future benefits, if any, shall be paid based upon length of service and compensation as of the date of disability. In the event that disability ceases and the member returns to employment within the System credited service to the date of disability shall be restored, and future benefits shall be determined accordingly.

C. A member who incurred a disability pursuant to subsection B of this section on or after July 1, 1999, and who has retired from the System with an early retirement benefit pending certification from the Social Security Administration or the Railroad Retirement

Board shall receive a retirement benefit not less than the disability retirement benefit provided by subsection B of this section once the System receives a Social Security Award Notice or a Railroad Retirement Award Notice pursuant to subsection B of this section and a completed Application for Disability Benefits. In addition, such member shall receive the difference, if any, between the early retirement benefit and the disability benefit from the date the Social Security Administration or the Railroad Retirement Board establishes disability entitlement.

D. Any actively participating member of the System on or after July 1, 1998, except for those employees provided in subparagraph (e) of paragraph (14) of Section 902 of this title, whose employment is less than full-time, shall have his or her final average compensation calculated on an annualized basis using his or her hourly wage subject to the maximum compensation limits; provided, however, any such member who has at least three (3) years of full-time employment during the last ten (10) years immediately preceding termination or retirement shall not be eligible for the annualization provisions contained herein. The Board of Trustees shall promulgate such administrative rules as are necessary to implement the provisions of this subsection.

<u>E. The provisions of this section shall not be applicable with respect to a member whose first service with a participating employer occurs on or after January 1, 2012.</u>

SECTION 8. AMENDATORY 74 O.S. 2001, Section 916, is amended to read as follows:

Section 916. A. Except as otherwise provided for by law, the accumulated contributions of a member who dies before retirement shall be paid to the beneficiary of the member.

B. The provisions of this section shall not be applicable to a member whose first service with a participating employer occurs on or after January 1, 2012.

SECTION 9. AMENDATORY 74 O.S. 2001, Section 916.1, as last amended by Section 1, Chapter 83, O.S.L. 2010 (74 O.S. Supp. 2010, Section 916.1), is amended to read as follows:

Section 916.1 A. Upon the death of a retired member, the Oklahoma Public Employees Retirement System shall pay to the beneficiary of the member or if there is no beneficiary or if the beneficiary predeceases the member, to the estate of the member, the sum of Four Thousand Dollars ($4,000.00) as a death benefit for those retired members who died prior to July 1, 1999. For those retired members who died on or after July 1, 1999, the sum shall be Five Thousand Dollars ($5,000.00). The benefit payable pursuant to this subsection shall be deemed, for purposes of federal income taxation, as life insurance proceeds and not as a death benefit if the Internal Revenue Service approves this provision pursuant to a private letter ruling request which shall be submitted by the board of trustees of the System for that purpose.

B. Upon the death of a member who dies leaving no living beneficiary or having designated his estate as beneficiary, the System may pay any applicable death benefit, unpaid contributions, or unpaid benefit which may be subject to probate, in an amount of Ten Thousand Dollars ($10,000.00) or less, without the intervention of the probate court or probate procedure pursuant to Section 1 et seq. of Title 58 of the Oklahoma Statutes.

1. Before any applicable probate procedure may be waived, the System must be in receipt of the member's proof of death and the following documents from those persons claiming to be the legal heirs of the deceased member:

a. the member's valid last will and testament, trust documents or affidavit that a will does not exist,

b. an affidavit or affidavits of heirship which must state:

(1) the names and signatures of all claiming heirs to the deceased member's estate including the claiming heirs' names, relationship to the deceased, current addresses and current telephone numbers,

(2) a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,

(3) a statement that the value of the deceased member's entire estate is subject to probate, and that the estate wherever located, less liens and encumbrances, does not exceed Ten Thousand Dollars ($10,000.00), including the payment of benefits or unpaid contributions from the System as authorized by this subsection,

(4) a description of the personal property claimed (i.e., death benefit or unpaid contributions or both), together with a statement that such personal property is subject to probate, and

(5) a statement by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System, and that the heir has been notified of, is aware of and consents to the identified claims of all the other claiming heirs of the deceased member pending with the System,

c. a written agreement or agreements signed by all claiming heirs of the deceased member which provides that the claiming heirs release, discharge and hold harmless the System from any and all liability, obligations and costs which it may incur as a result

of making a payment to any of the deceased member's heirs,

d. a corroborating affidavit from an individual other than a claiming heir, who was familiar with the affairs of the deceased member, and

e. proof that all debts of the deceased member, including payment of last sickness, hospital, medical, death, funeral and burial expenses have been paid or provided for.

2. The Executive Director of the System shall retain complete discretion in determining which requests for probate waiver may be granted or denied, for any reason. Should the System have any question as to the validity of any document presented by the claiming heirs, or as to any statement or assertion contained therein, the probate requirement provided for in Section 1 et seq. of Title 58 of the Oklahoma Statutes shall not be waived.

3. After paying any death benefits or unpaid contributions to any claiming heirs as provided pursuant to this subsection, the System is discharged and released from any and all liability, obligation and costs to the same extent as if the System had dealt with a personal representative of the deceased member. The System is not required to inquire into the truth of any matter specified in this subsection or into the payment of any estate tax liability.

C. Death benefits provided pursuant to this section may be assigned by the beneficiary to a person licensed as a funeral director or to a lawfully recognized business entity licensed as required by law to provide funeral services for the deceased member.

D. The provisions of this section shall not be applicable with respect to a member whose first service with a participating employer occurs on or after January 1, 2012.

SECTION 10. AMENDATORY 74 O.S. 2001, Section 916.3, as amended by Section 4, Chapter 539, O.S.L. 2004 (74 O.S. Supp. 2010, Section 916.3), is amended to read as follows:

Section 916.3 A. Notwithstanding the provisions of Sections 901 through 932 of this title, a monthly pension, as provided in subsection B of this section, shall be paid on behalf of any member who is a correctional officer or probation and parole officer of the Department of Corrections and who is killed or mortally wounded on or after January 1, 2000, during the performance of the member's duties for the Department or any employee of the Department of Corrections who is killed or mortally wounded after June 30, 2004, during the performance of the member's duties for the Department.

B. The monthly benefit shall be equal to:

1. Two and one-half percent (2 1/2%);

2. Multiplied by twenty (20) years of service, regardless of the actual number of years of credited service performed by the member prior to death, if the member had performed less than twenty

(20) years of credited service, or the actual number of years of credited service of the member if greater than twenty (20) years;

3. Multiplied by the member's final average compensation; and

4. Divided by 12.

C. The pension provided for in subsection A of this section shall be paid:

1. Except as provided in subsection D of this section, to the surviving spouse for life; or

2. If there is no surviving spouse or upon the death of the surviving spouse:

a. to the surviving child or children of said member or legal guardian of such child or children for such time as such child or children are under the age of eighteen (18) years, or

b. to the surviving child or children between the age of eighteen (18) and twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education.

D. No surviving spouse shall receive benefits from this section, Section 49-113 of Title 11 of the Oklahoma Statutes, Section 50-117 of Title 11 of the Oklahoma Statutes, or Section 2-306 of Title 47 of the Oklahoma Statutes as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and

Retirement System, the Oklahoma Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System, or the Oklahoma Public Employees Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

E. In addition to the pension above provided for, if said member leaves one or more children under the age of eighteen (18) years or under the age of twenty-two (22) years if the child is enrolled full-time in and is regularly attending a public or private school or any institution of higher education, Four Hundred Dollars ($400.00) a month shall be paid to the surviving spouse or to the person having the care and custody of such children if there is no surviving spouse or if the surviving spouse dies and until each child reaches the age of eighteen (18) years or reaches the age of twenty-two (22) years if the child is enrolled full-time in and is regularly attending a public or private school or any institution of higher education.

F. The pension benefit provided in this section shall be made prospectively only from the effective date of this act. The benefits shall be payable beginning the later of the first day of the month following the date that such employee was killed or dies from a mortal wound, as provided in this section, or the effective date of this act.

G. The Board of the Oklahoma Public Employees Retirement System shall promulgate such rules as are necessary to implement the provisions of this section.

H. The provisions of this section shall not be applicable with respect to a member whose first service with a participating employer occurs on or after January 1, 2012.

SECTION 11. AMENDATORY 74 O.S. 2001, Section 917, as last amended by Section 25, Chapter 536, O.S.L. 2004 (74 O.S. Supp. 2010, Section 917), is amended to read as follows:

Section 917. (1) Upon termination of employment with a participating employer, not followed by employment with such participating employer, or another participating employer, within four (4) calendar months, the member shall be paid an amount equal to the amount of money he or she has paid into the System upon the filing of the proper application with the System. Payment of these accumulated contributions may be made in less than four (4) calendar months only in the event that a member is not eligible to elect a vested benefit pursuant to this section and said member is terminally ill, as evidenced by a physician's certification that the member is not expected to live beyond four (4) months.

(2) If such member has completed eight (8) years of credited service at date of termination or if the member is a legislative session employee of the Legislature or if the employee is a session employee employed by the Legislative Service Bureau, four (4) years

of credited service at date of termination, he may elect a vested benefit in lieu of receiving his accumulated contributions. The amount of the vested benefit shall commence at the normal retirement date and shall be paid monthly during the lifetime of the retirant with the last payment made on the last day of the month in which death occurs.

(3) Upon death before the normal or early retirement date of a member who has elected a vested benefit, his accumulated contributions shall be paid to his beneficiary unless the spouse of the deceased member elects monthly benefits as provided for in Section 918 of this title.

(4) Upon death after the normal or early retirement date of a retirant who elected a vested benefit without an option, the excess, if any, of his accumulated contributions over the sum of all payments of the vested benefit made to date of death shall be paid to his beneficiary.

(5) If a former employee, who meets the eligibility requirements for membership, returns to employment after the expiration of four (4) calendar months following the termination of his employment and the employee has withdrawn his accumulated contributions, he may pay to the System the sum of the accumulated contributions he has withdrawn plus interest of not to exceed ten percent (10%), as determined by the Board, and shall receive the same benefits as if he had never withdrawn his contributions. No

member shall be permitted to take advantage of the payback for restoration of creditable service more than one time. If a member, who has elected a vested benefit, or a reemployed member, who has not withdrawn the member's contributions, again becomes an employee of a participating employer, the period of absence shall not be counted as a break in service; however, the period of absence shall not be credited.

(6) Prior to January 1, 1991, members, who at the time of employment were ineligible for membership into the System due to their age, shall receive benefits for the period of ineligibility if the employer and employee contributions are paid the System for that ineligible period. No interest shall be paid on a payback of this type. However, effective January 1, 1991, to receive benefits, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

(7) When any error in calculation or participation coverage to a prior or current employee exists, it shall be the responsibility of the participating employer which made the error to pay the amount determined by the Board pursuant to Section 913.5 of this title. This obligation of the participating employer to pay the amount due pursuant to this section shall be considered a current obligation of the employer until the amount is paid in full, regardless of the dates of the periods of service.

(8) Upon application to the Board and payment as determined by the Board, a member of the System may receive service credit for those years of service that the member was eligible to receive service credit from the Teachers' Retirement System of Oklahoma. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

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

(10) Subject to the provisions of Sections 918 and 918.1 of this title, if there are two or more beneficiaries designated by the member, upon the member's death, the System shall pay any applicable benefits to any of the beneficiaries that have completed all required paperwork regardless of whether or not all beneficiaries have completed such paperwork.

<u>(11) The provisions of this section shall not be applicable with respect to a member whose first service with a participating employer occurs on or after January 1, 2012.</u>

SECTION 12. AMENDATORY 74 O.S. 2001, Section 918, as last amended by Section 33, Chapter 46, 2nd Extraordinary Session,

O.S.L. 2006 (74 O.S. Supp. 2010, Section 918), is amended to read as follows:

Section 918. (1) Except as otherwise provided for in this section and Section 918.1 of this title, a member may elect to have the retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in Section 915 of this title. The election of an option must be made at any time prior to retirement or prior to termination of service with a vested benefit. A specific person must be designated as joint annuitant at the time of election of Option A or B. Election of an option is available with respect to the vested benefit. All retirement benefits of a married member shall be paid pursuant to the Option A plan as provided for in this section unless the spouse of a member consents in writing for the benefits to be paid as provided for in Section 915 of this title or pursuant to Option B or Option C as provided for in this section.

(2) The amount of retirement benefit payable under an option shall be based on the age and sex of the member and the age and sex of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under Section 915 of this title.

(3) The retirement options are:

Option A. Joint and one-half to joint annuitant survivor. A reduced retirement benefit is payable to the retirant during his or

her lifetime with one-half (1/2) of that amount continued to the joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. If the named joint annuitant dies at any time after the member's retirement date, but before the death of the retirant, the retirant shall return to the retirement benefit, including any post retirement benefit increases the member would have received had the member not selected Option A. The benefit shall be determined at the date of death of the named joint annuitant or July 1, 1994, whichever is later. This increase shall become effective the first day of the month following the date of death of the named joint annuitant or July 1, 1994, whichever is later, and shall be payable for the retirant's remaining lifetime. The retirant shall notify the Oklahoma Public Employees Retirement System of the death of the named joint annuitant in writing. In the absence of the written notice being filed by the member notifying the Oklahoma Public Employees Retirement System of the death of the named joint annuitant within six (6) months of the date of death, nothing in this subsection shall require the Oklahoma Public Employees Retirement System to pay more than six (6) months of retrospective benefits increase.

Option B. Joint and survivor. A reduced retirement benefit is payable to the retirant during his or her lifetime with that amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of the retirant. If the

named joint annuitant dies at any time after the member's retirement date, but before the death of the retirant, the retirant shall return to the retirement benefit, including any post retirement benefit increases the member would have received had the member not selected Option B. The benefit shall be determined at the date of death of the named joint annuitant or July 1, 1994, whichever is later. This increase shall become effective the first day of the month following the date of death of the named joint annuitant or July 1, 1994, whichever is later, and shall be payable for the retirant's remaining lifetime. The retirant shall notify the Oklahoma Public Employees Retirement System of the death of the named joint annuitant in writing. In the absence of such written notice being filed by the member notifying the Oklahoma Public Employees Retirement System of the death of the named joint annuitant within six (6) months of the date of death, nothing in this subsection shall require the Oklahoma Public Employees Retirement System to pay more than six (6) months of retrospective benefits increase.

Option C. Life with ten (10) years certain. A reduced retirement benefit is payable to the retirant during his or her lifetime and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefits payments, such payments will be continued to the beneficiary during the balance of the ten-year certain period. If the retirant dies

within the ten-year certain period, and there are no living designated beneficiaries, the person responsible for the estate of the retirant may elect for the estate to be paid the benefits for the remainder of the term or to receive the present value of the remaining benefit payments according to rules adopted by the Board of Trustees of the System. If the retirant predeceases a designated beneficiary within the ten-year certain period, and the beneficiary dies after the beneficiary has begun to receive benefits, the person responsible for the estate of the beneficiary may elect for the estate to be paid the benefits for the remainder of the term or to receive the present value of the remaining benefit payments according to rules adopted by the Board of Trustees of the System.

(4) If the selection of a joint annuitant would violate the distribution requirements contained in Section 918.1 of this title, such selection will not be permitted.

(5) If a member who is eligible to retire in accordance with the provisions of Section 914 of this title but is not actually retired or is eligible to vest or has elected a vested benefit dies, the member's spouse may elect to receive benefits as a joint annuitant under Option B calculated as if the member retired on the date of death, in lieu of receiving the member's accumulated contributions. However, no benefits shall be payable before the date the deceased member would have met the requirements for a normal or early retirement. The provisions of this paragraph shall

be applicable to a surviving spouse of a deceased member who died prior to the effective date of this act, but only if no benefits or distributions have been previously paid.

(6) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of Option A and Option B, shall end on the last day of the month in which the joint annuitant dies.

(7) The provisions of this section shall not be applicable with respect to a member whose first service with a participating employer occurs on or after January 1, 2012.

SECTION 13. AMENDATORY 74 O.S. 2001, Section 920, as last amended by Section 1, Chapter 470, O.S.L. 2010 (74 O.S. Supp. 2010, Section 920), is amended to read as follows:

Section 920. (1) Effective July 1, 1994, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, but not in excess of Forty Thousand Dollars ($40,000.00).

(2) Effective July 1, 1995, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, not to exceed the allowable annual compensation as defined in paragraph (9) of Section 902 of this title.

(3) Effective July 1, 1996, every state agency which is a participating employer shall contribute to the System an amount equal to twelve percent (12%) of the monthly compensation of each member, not to exceed the allowable annual compensation defined in paragraph (9) of Section 902 of this title.

(4) Effective July 1, 1999, and through the fiscal year ending June 30, 2005, every state agency which is a participating employer shall contribute to the System an amount equal to ten percent (10%) of the monthly compensation of each member, not to exceed the allowable annual compensation defined in paragraph (9) of Section 902 of this title.

(5) (a) Effective July 1, 2005, every state agency which is a participating employer shall contribute an amount to the System equal to a percentage of monthly compensation of each member, not to exceed the allowable annual compensation defined in paragraph (9) of Section 902 of this title as follows:

July 1, 2005 - June 30, 2006	11 1/2%
July 1, 2006 - June 30, 2007	12 1/2%
July 1, 2007 - June 30, 2008	13 1/2%
July 1, 2008 - June 30, 2009	14 1/2%
July 1, 2009 - June 30, 2011	15 1/2%
July 1, 2011 - June 30, 2012 and each year thereafter	16 1/2%

(b) Effective January 1, 2012, with respect to the employer contribution made for a member, the applicable state governmental entity shall make payment of the full amount of the employer contribution as required by the provisions of this section to the Oklahoma Public Employees Retirement System. The Oklahoma Public Employees Retirement System shall make any required matching payment based on the election of the member pursuant to subsection D of Section 2 of this act to the defined contribution plan account established or maintained for the benefit of the member. The balance of the employer contribution amount with respect to the member shall be deposited in the same manner as other employer contribution amounts to the credit of the defined benefit plan qualified pursuant to Section 401(a) of the Internal Revenue Code of 1986, as amended, created pursuant to Section 903 of this title, and which is maintained for the benefit of other members of the System.

(6) The Board shall certify, on or before November 1 of each year, to the Office of State Finance an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the System, to be paid by each participating employer to pay all liabilities which shall exist or accrue under the System, including amortization of the past service cost over a period of not to exceed forty (40) years from June 30, 1987, and the cost of administration

of the System, as determined by the Board, upon recommendation of the actuary.

(7) The Office of State Finance and the Governor shall include in the budget and in the budget request for appropriations the sum required to satisfy the state's obligation under this section as certified by the Board and shall present the same to the Legislature for allowance and appropriation.

(8) Each other participating employer shall appropriate and pay to the System a sum sufficient to satisfy the obligation under this section as certified by the Board.

(9) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which said contribution is paid from or from any other funds available to it for such purpose.

(10) Forfeitures arising from severance of employment, death or for any other reason may not be applied to increase the benefits any member would otherwise receive under the System's law. However, forfeitures may be used to reduce an employer's contribution.

SECTION 14. AMENDATORY 74 O.S. 2001, Section 920A, as last amended by Section 140, Chapter 1, O.S.L. 2005 (74 O.S. Supp. 2010, Section 920A), is amended to read as follows:

Section 920A. A. Any county, county hospital, city or town, conservation district, circuit engineering district or any public or private trust in which a county, city or town participates and is

the primary beneficiary, which is a participating employer and any eligible employee shall contribute to the System. The total employer and employee contributions shall be based on the allowable annual compensation as defined in paragraph (9) of Section 902 of this title. Except as provided for in this section, the employer shall not pay for the employee any of the employee contribution to the System.

B. For the fiscal year ending June 30, 2005, the total employer and employee contributions shall equal thirteen and one-half percent (13 1/2%) of the allowable monthly compensation of each member; provided, however, each participating employer listed in this section may set the amount of the employer and employee contribution to equal thirteen and one-half percent (13 1/2%) of the allowable monthly compensation of each member for compensation as provided in paragraph (9) of Section 902 of this title; provided, the employer contribution shall not exceed ten percent (10%) and the employee contribution shall not exceed eight and one-half percent (8 1/2%).

C. 1. The total employer and employee contributions ~~for fiscal years following the fiscal year ending June 30, 2005,~~ shall be as follows:

July 1, 2005 - June 30, 2006	15%
July 1, 2006 - June 30, 2007	16%
July 1, 2007 - June 30, 2008	17%
July 1, 2008 - June 30, 2009	18%

July 1, 2009 - June 30, 2010	19%
July 1, 2010 - June 30, 2011 and each fiscal year thereafter	20%

Such employee and employer contributions shall be based upon the allowable monthly compensation of each member for compensation as provided in paragraph (9) of Section 902 of this title. The maximum employer contribution of ten percent (10%) in subsection B of this section shall increase by one and one-half percent (1.5%) beginning in the fiscal year ending June 30, 2006, and one percent (1%) for each fiscal year thereafter until it reaches sixteen and one-half percent (16.5%). For such years, the employee contribution shall not exceed eight and one-half percent (8 1/2%).

2. Effective January 1, 2012, with respect to the employer contribution made for a member, the applicable local governmental entity shall make payment of the full amount of the employer contribution as required by the provisions of this section to the Oklahoma Public Employees Retirement System. The Oklahoma Public Employees Retirement System shall make any required matching payment based on the election of the member pursuant to subsection D of Section 2 of this act to the defined contribution plan account established or maintained for the benefit of the member. The balance of the employer contribution amount with respect to the member shall be deposited in the same manner as other employer contribution amounts to the credit of the defined benefit plan

qualified pursuant to Section 401(a) of the Internal Revenue Code of 1986, as amended, created pursuant to Section 903 of this title, and which is maintained for the benefit of other members of the System.

D. For members who make the election pursuant to paragraph (2) of subsection A of Section 915 of this title, the employee contribution shall increase by two and ninety-one one-hundredths percent (2.91%). Such employee contribution increase shall be paid by the employee.

E. Each participating employer pursuant to the provisions of this section may pick up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1989. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the participating employer in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the participating employer to the System.

F. Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the participating employer. Member contributions so picked up shall be included in gross salary for purposes of determining benefits and contributions under the System.

G. The participating employer shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member.

SECTION 15. AMENDATORY 74 O.S. 2001, Section 925, is amended to read as follows:

Section 925. A. All employees of participating employers who are eligible or may hereafter become eligible to be members of the system as provided by this act shall, as a condition of continuing employment or as a condition of obtaining employment with a participating employer, become members of the system.

B. The provisions of this section shall be applicable to members whose first service with a participating employer occurs on or after January 1, 2012, but only with respect to participation in the defined contribution plan established for the member pursuant to Section 2 of this act.

SECTION 16. This act shall become effective January 1, 2012.

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